

SPECIFICATION: EXTERNAL FINISHES TO BUILDINGS

Building Plinth Finish at ground	Under-cill Ground Floor treatment	Ground floor cill to soffit of first floor	First floor to Penultimate floor on External Elevations	External Elevation Window cills and copings	First floor to Penultimate floor on Courtyard Elevations	Courtyard Elevation window cills and Copings	Upper floors	Roof Finish	Windows throughout accommodation	Balustrading	Decorative metal features on façade	Rainwater downpipes	Building 1 Front Elevation	Building 1 Restaurant Glazing	Windows to Entrances on Courtyards and Flanking windows in 'pop-out' kitchens	Glass block	Note: All of the above finishes can be approved in principle on the basis of this specification and will be installed in the mock-up installation for inspection and approval
ceramic tile or glazed brick to resist moisture/ wear	ceramic tile or glazed brick to resist wear	pigmented render finish	natural earthy predominantly red clay brick finish with wide colour variation in mix, moderately soft and textured to encourage organic appearance without too much moss, flamed to give broad mottle effect, warmth and variety in shape and colour: long bricks preferably to emphasise horizontal line, façade designed to module to eliminate need for cut bricks, joints to shallow recess with bucket handle joint with mortar colour to be selected on site with recessed details to partly conceal downpipes and as decorative features at overhang soffits throughout	Reconstituted stone to colour to be selected to match in with brick skin	Pigmented Render finish in light reflective colours with detailing to match external elevations	Powder coated metallic Bronze Aluminium to match window finish	Zinc cladding with standing seams	Zinc cladding with standing seams	Combination windows with powder coated metallic bronze reflective aluminium external frames and pale timber internal frame finish with articulated microrib spandrel panels at indicated locations on elevations	Painted or similar galvanised steel balustrades and handrails in colour to match or zinc downpipes	Painted or similar galvanised steel bars fixed to facade	Zinc or similar to match roof and upper floor finish	Pale limestone or similar stone cladding at indicated locations	Curtain Walling to detail			

Condition No. 8 (revised drawings)

Revised drawings of the proposed development with floor plans and elevations corresponding in detail shall be submitted to and agreed in writing by the planning authority prior to the commencement of development.

Reason: In the interest of orderly development

Interpretation:

This condition involves the submission of revised drawings incorporating all necessary amendments to Dublin Corporation. Notwithstanding the alterations to the documents to comply with the current permission, the Inspector noted in his report certain discrepancies between plans and elevations, which are to be corrected in the revised documents.

Relevant Extracts from An Bord Pleanála Inspector's Assessment

"The scheme has been designed by a firm of competent architects. I consider that it is generally acceptable as proposed from a design point of view. (I note however that there are some discrepancies in the drawings e.g. the floor layout and the elevational drawings of block no. 2 do not correspond in detail at the northern end of the west facing elevation. There also appears to be discrepancies in window sizes and small openings indicated on elevations are not shown on the layout plans. I consider that the discrepancies are not significant in a fundamental sense. Details however should be agreed with the planning authority)

This condition caused some discomfort in the public realm regarding the precise latitude permitted to the planning authority and the possibility for the Developer being "at large." It is relevant to quote here from the judgement of Judge McKechnie at the High Court Leave Application Hearing:

Relevant Extracts from High Court Judgement

"Therefrom the following can be stated: -

(i) An Bord Pleanála is entitled to grant a planning permission subject to conditions, which may include a requirement, that matters should be agreed between the planning authority and the recipient of the permission.

(ii) Whether such a requirement is intra vires is a matter of degree and depends on the nature of the matter left for resolution, the resolving of which must have regard to the nature and circumstances of each particular application and development

(iii) In deciding whether or not to regulate an aspect of a proposed development in this way the board is entitled to

(a) afford a developer, subject to the consent of the planning authority, a degree of flexibility, particularly if the intended scheme involves complex enterprise

(b) to leave technical matters or matters of detail including a redesign in the light of practical experience, to such a device, and

(c) to have faith and confidence in the planning authority's role given its statutory function and responsibility."

He goes on to say:

"The planning permission sought in this case and granted on appeal by the Board was in respect of the Development as proposed which Development had to be carried (out) in accordance with the

revised plans submitted to the planning authority and received by it on the 7th day of October 1999. Whilst condition no. 1 of the grant goes on to state: -

"Except as may otherwise be required in order to comply with the following conditions"

(it) should be clearly understood that the scheme authorised is that as outlined in these revised plans. There can be no question whatsoever of the developer being at large, even to a limited extent, with regard to what may be constructed. The reason given for condition no. 1 makes this clear - it is stated: -

"In the interest of Clarity"

Namely that the developer and indeed the public would know what is authorised.

Condition no. 8 does not in any material significant or meaningful way modify this condition. To so construe the condition first mentioned would in fact be to misconstrue it. Accordingly I can see no basis for the submission that the development for which planning permission has been obtained is unknown or cannot in all material respects be identified."

And further states:

"I am convinced that Condition no. 8 was essentially designed to meet discrepancies and ambiguities outlined by the Inspector. I cannot therefore conceive of any argument objectively sustainable, which supports the Applicant's submission under this heading.

In addition I do not believe that it would be correct of me to assume that the planning authority, which as a matter of law must be aware of its functions and responsibilities when dealing with conditions would exceed its role which is to further the faithful implementation of the permission. It would be wrong in my view to ascribe to it any ultra vires intention when none has or could be so identified. Whilst the availability of a remedy could not by itself deprive an applicant of his entitlement to leave, otherwise it should be granted, nonetheless the fact that Section 82 (3a) must not apply is a fact which in my view I am entitled to take into account when assessing the material in the context of the specified threshold."

Impact

This condition was compiled with once all other conditions were addressed. Following consultation, all design directions are incorporated into the enclosed documents. In the interest of clarification and to emphasise the observations of Justice Mckechnie, we note that the main alterations are as follows:

A. Alterations to comply with Conditions

These include revisions to or supplementary information added to the original October 1999 package which range from drawing revisions: e.g.

- the redesign of Building 3 (Condition 2 (Dwg no. 98046/221/PPP1)),
- the limitation of boundary wall intervention (Condition 6 (Dwg no. 98046/229/PPP1)),
- supplementary/clarity information regarding trees (Condition 9 - dwgs nos. 98046/201, 2018, 201C + arborist's report)
- additional drawings regarding drainage (Condition 10 & 11 - dwgs nos. 97/1271 D-01 - D-09)
- additional information and revisions to the entrance area (Condition 12)
- revisions to the Atrium at Trinity Hall to allow the Development to progress until approval application for such has been assessed by the planning authority (Condition 14)
- archaeological assessment implemented and attached (Condition 15)
- Services Engineer opinion on noise levels (Condition no. 16)
- architectural and photographic survey of Gate Lodge
- etc.

B. Alterations to correct discrepancies between documents

These include revisions to or supplementary information added to the original October 1999 package which address specifically the discrepancies highlighted by the Inspector, and other inconsistencies including the following:

- insertion of small windows into plans
- co-ordination of plans, sections and elevations
- review of dimensional inaccuracies in windows and standardisation of window typologies
- relocation of ESB substation to inner site location in lieu of site perimeter
- "steps" incorporated into plan drawings as well as facade
- corridor windows inserted to full height with articulated micro-rib spandrel panels
- glass block detail incorporated at kitchen flanks and at entrances in courtyards

C. Alterations for Clarification Purposes

These include the expansion of the package to represent all information as "typical" representations was considered to be misleading and confusing at the Oral Hearing

- indication of all levels to all buildings instead of "typical" floor levels including plant room layouts in roofspace (dwgs. Nos. 98046/213G, 214A, 215A)
- supplementary information regarding trees
- site hoarding and builder's compound drawing added
- external recycling suites added

Action

The scheme is revised according to the directions of the An Bord Pleanála Conditions and otherwise in accordance with Condition 1 with the exception of a few corrections or clarifications such as those outlined above.

The enclosed revised and complete set of drawings corresponding to the current scheme is submitted in the same format as the original drawings submitted in October 1999 for ease of comparison.

We trust in the context of these documents that compliance with the condition has been attained and anticipate the written agreement of Dublin Corporation to this effect.

Condition No. 9 (trees)

"Existing trees shall be retained and areas shown as open space on the lodged plans shall be planted and landscaped in accordance with the plans submitted to the planning authority. The open areas shall be available for use by the students on completion of the proposed residential units. All landscaping works shall be carried out within 12 months of the completion of the buildings in the proposed development. Services and utilities shall not be laid within 10 metres of the bole of any of the trees to be retained. Prior to the commencement of development the developer shall submit details and agree with the planning authority measures necessary to protect the trees to be retained. All trees to be retained shall be protected during the development by a timber post and rail fence which shall enclose the crown spread of the trees.

Reason : To protect the existing trees and in the interest of visual and residential amenity"

Interpretation:

This condition corresponds in some details to condition no. 9 of the superseded planning grant of permission of November 1999. The condition is clearly worded and will be adhered to insofar as is possible.

There is some difficulty with the blanket wording "Services and utilities shall not be laid within 10 metres of the bole of any of the trees to be retained." This is neither useful, realistic nor practical in the interests of the Development or of the trees on the site. A number of trees on the site will necessarily require more than the stipulated 10m tree protection zones. Others will never attain such a requirement throughout their lifespan.

Relevant Extracts from An Bord Pleanála Inspector's Assessment

On retaining of existing trees:

"I consider that the lands due to their open character and in particular due to the visual impact of the mature trees on the lands add significantly to the character and visual amenities of the area. I consider that it is desirable that in any re-development of the lands the bulk of the trees should be retained and the open character of the lands should also be retained whilst permitting a reasonable density consistent with the Guidelines on Residential Density and the need to provide for a sustainable form of development in a serviced area. In this regard, I consider that a balance must be struck between the desire to retain an open character to the lands and the requirement to provide a high density of development.

The development as proposed involves the retention of the bulk of the existing trees of amenity value. The development as indicated in the revised plans in particular allows for the retention of the bulk of the trees at the northern end of the site and the trees at the Darty Road frontage. Insofar as the protection of the existing trees and character of the area is concerned I consider that the revised proposal as submitted in response to the Section 35 notice is a significant improvement on the original proposal which would have involved buildings located on a larger footprint and scattered throughout the site. I note however that the many of the mature trees in the site are indicated in the tree survey as being in fair or poor condition"

Further:

"I consider that a reasonable effort is being made by the applicants to ensure the survival of the existing trees. The building set back from the trees on the Darty Road is such that the proposed buildings would be generally outside the crown spread of the trees. It is possible however in any development proposal such as that in question here that some trees will in the long term suffer stress and may be affected. I note that many trees are stated to be in fair or poor condition in the tree survey. Trees including beech trees can survive on development sites in relative close proximity to buildings. Subject to adequate precautions being taken during the construction phase I consider that a reasonable effort is being made to protect the existing mature trees. Only a small number of

consider that this is not a significant issue in the current case having regard to the small number of trees to be transplanted. There is no reason to question the applicants bona fide in terms of its desire to retain the mature trees on the site. The issue of the retention and protection of trees has been handled in a reasonable way by both the applicants and the planning authority."

On open space:

"Having regard to the layout and the proposal to retain the trees the open character would be retained to some extent I consider that it would not be possible to retain the open character as it currently exists if the site is to be developed to cater for institutional use... I note that in the Guidelines for Planning Authorities on Residential Density it is stated that in the event of institutional lands being re-developed for residential purposes it should be an objective to retain some of the open character of the lands but this should be assessed in the context of the quality and provision of existing and proposed open space in the area generally. It is stated that the objective of retaining the open character of the lands should be achieved by concentrating increased densities in selected parts. Having regard to the nature of the use proposed in the current application I consider that the open space provision is reasonable. I also consider that the proposed development would not be of excessive density in terms of site coverage or plot ratio. I consider that a reasonable level of residential amenity would be available for the occupants of the proposed units in terms of passive open space areas."

Impact

Having examined this condition as potentially overly onerous in some cases under its current wording a professional and respected arborist was commissioned to assess each individual tree that the Development appears to place in jeopardy and to advise on the potential impacts of the Development and how best to adequately protect these specimens.

Compliance

The arborist's detailed report is submitted with these documents at Appendix D of this report for the approval of the Parks department of Dublin Corporation.

In addition, all architectural site drawings have been augmented, supplemented and revised to indicate each tree, its drip line / crown spread, its condition, and specific trees for removal or transplantation, including reasons for implementing these actions.

In addition a site hoarding / builder's compound diagram is attached, which has been approve by the arborist.

We trust in the context of these reports and documents that substantial compliance with the condition has been attained in the most reasonable and appropriate manner. The arborist will be retained throughout the Works to supervise and inspect on a regular basis.

It is clear that the above condition does not expressly require agreement in writing or otherwise prior to the commencement of Development.

It is therefore assumed that written agreements secured on the foot of this submission will suffice for a commencement notice to be lodged with the Building Control Authority and for Development to commence. In any case, the issue is competently in these documents.

Should further refinement be required by Dublin Corporation as a matter of detail, we would anticipate that these matters can be resolved between the parties as the project progresses.

ALLIEST 2004

- site worked with the investigation survey
- site worked with topographical survey

comply with An Bord Pleanála. Condition no. 1 and Condition no. 8

Supplementary Information: Boundary Wall

to comply with An Bord Párlaiminte Condition no.6

* Increased awareness of the carbon footprint

*Pro capitea revised to reflect actual confidit

• **Items for removal indicated by reason for return (see colour legend D17G 98040201B)**

(see colour legend DWG 580-6/2013)

REASON FOR REVISIONS:

Condition no. 6 "to protect the existing local and interest of rural and residential community"

Supplementary Information: Archæo

REASON FOR REVISIONS:

Ordinance no. 16 "to protect the archaeological and historical interest of the site."

Судебная коллегия по уголовным делам Верховного Суда Российской Федерации

(see accompanying documents)

REASON FOR REJECTION:

to comply with an Ford Plantwide Condition

existing guidelines and in the interest of visual

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^a Data not available; WHO figures of dengue incidence only.

2000

Excluding Times Items

Existing Trees to

Existing Trees in Good

8

Colleen Trease

SITE BOUNDARY

Due diligence is required by corporations with at least 100 employees, assets and capital in the

The Controller must follow procedures, such as that used in handling of 1946 bonds, to recognize at a 100 per cent basis if necessary for the 1946 bonds.

18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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PPPT	original	ISSUED FOR PLANNING COM
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Client TRINITY COLLEGE DUBLIN

AND REMOVAL LAYOUT PLAN

Date OCT 2000 Scale: 1:500 Job

Approved _____

 COORDINATOR This drawing set shall be prepared by _____

DebiLing
Security, Safety,
Reliability & Cost
Building 1

miravõlaire arc

1990

Condition No. 10 (sewer)

1 The proposed development shall be drained on a completely separate system with separate connections to the public foul and surface water systems

2 Surface water discharges shall be limited in accordance with the requirements of the planning authority. Full details of control measures shall be agreed with the planning authority prior to the commencement of development

3 The proposed development shall not be occupied until the existing combined sewer along Temple Road has been upgraded by the relaying of the section of sewer extending from the location of the proposed connection to the public sewer to the point where a new 750 millimetre diameter has been provided in place of the original sewer, that is a length of approximately 390 metres of the existing sewer shall have been re-laid as a 750 millimetre sewer.

4 In the event of the existing combined sewer along Temple Road not being upgraded as required at (3) above by the developer, the developer shall pay a contribution to the planning authority towards expenditure that is proposed to be incurred by the planning authority in respect of works to re-lay the existing combined sewer which will facilitate the proposed development. The amount of the contribution and arrangements for payment shall be agreed between the developer and the planning authority or, in the default of agreement, shall be determined by An Bord Pleanála. The requirement to pay the contribution is subject to the provisions of section 26 (2) (f), 26 (2) (h) and 26 (7) of the Local Government (Planning and Development) Act 1963 generally and in particular the specified period for the purposes of paragraph (h) shall be a period of seven years from the date of this order.

Reason: In the interest of public health"

Interpretation:

This condition corresponds in some details to condition no. 6 of the superseded planning grant of permission of November 1999, which was appealed by the applicant. The condition is clearly worded in the main and formed the backbone for discussions with the Drainage division of Dublin Corporation.

Relevant Extracts from An Bord Pleanála Inspector's Assessment

"Having regard to the evidence submitted in relation to the existing drainage facilities serving the area I consider that the development should not be occupied until the sewer improvement works referred to in Condition 6 (a) of the planning authority's decision have been carried out."

Impact

The Site Drainage plan underwent many revisions subsequent to the detailed arborists report and in the context of Condition no. 9 concerning the protection of trees. The drainage in all cases respects to the letter the stipulations of Condition no. 9. Detailed Drainage drawings supplementary to the original package have been prepared and submitted to the Drainage Division of Dublin Corporation and copies are attached with these documents. Specifically, Dwg. Nos. 971271/D-01/P3 (Proposed Final Site Drainage), 971271/D-02/P3 (proposed Drainage for Building 1), 971271/D-03/P3 (proposed Drainage for Building 2), 971271/D-04/P3 (proposed Drainage for Building 4), 971271/D-02/P3 (proposed Drainage for Building 3), 971271/D-05/P3 (proposed site drainage and services), 971271/D-06/P3 (Existing Site Drainage), 971271/AT-01 (Attenuation Pond Details).

The drainage proposal for Temple Road underwent constant refinement with the drainage division of the Corporation and the project engineers. The relevant correspondence is attached at appendix F of this report. The Corporation have agreed to carry out this work.

The amount of financial contribution to cover the works to this sewer has been negotiated, but must be considered in the context of the general contribution outlined in Condition no. 18.

The Corporation agreed to carry out this work for the agreed sum in the attached correspondence, and the work has started, is underway and nearing completion. Monies will be paid out by the applicant upon receipt of the relevant invoice.

Compliance

We trust therefore that compliance has been attained with regard to this Condition and anticipate the planning authority's agreement.

Condition No. 11 (drainage)

Connections to the public piped drainage and water supply facility shall be in accordance with the requirements of the planning authority.

Reason: in the interest of public health

Interpretation:

This condition is interpreted to allow current negotiations with the Corporation to continue until resolution is attained. The condition is standard in wording and clear in intent and will be implemented.

Impact

Details and layouts of the drainage proposal have been submitted to the Drainage division of the Corporation for their approval. It is noted with regard to this condition and the previous condition that the exact configuration of the proposed drainage scheme was not completed until the results of the arborists' survey was secured and examined with regard to the position on trees.

The resolved details are scheduled on the accompanying drawing schedule and copies of supplementary drawings have been lodged with the Drainage division of Dublin Corporation, specifically, dwg. Nos. 97/1271/D-08 P1 and 97/1271/D-09 P1: Typical connections to Corporation Sewers, and in the Drainage Design Calculations report included at Appendix F of this report.

Compliance

We trust therefore that compliance has been attained with regard to this Condition and anticipate the planning authority's agreement.

Condition No. 12 (Entranceways)

Details of the proposed entrance including details of materials to be used and the demarcation of the vehicular access and egress carriageways at the Darty Road junction shall be submitted to and agreed with the planning authority prior to the commencement of development. The public footpath at the location of the proposed access shall be ditched and strengthened in accordance with the requirements of the planning authority at the developer's expense.

Reason: In the interest of vehicular and pedestrian traffic safety and convenience.

Interpretation:

This condition relates to the new area created on the public path at Darty Road and the new vehicular entranceway. The condition is clear in its interpretation and has been incorporated into the site layout drawings enclosed with this package.

Relevant Extracts from An Bord Pleanála Inspector's Assessment

"The Roads Department of the Corporation however considers that the proposed development would not generate a significant volume of traffic and would be acceptable in principle from a traffic-safety point of view. The Roads Department had some reservations in relation to the width of the bellmouth opening and considers it necessary to define the vehicular access in this area. I accept that a reasonable argument could be made to the effect that the Temple Road Access would be a more appropriate main access to the development having regard to the existence of traffic lights at the junction of Temple Road with Darty Road and the relatively low volume of traffic on Temple Road. I consider however that the proposed development by its nature would not generate a significant volume of traffic. In the circumstances I consider that the development as proposed would not endanger public safety by reason of traffic hazard."

Impact

This area has been refined in the intervening period and details are enclosed with this package at appendix J for the approval of the Roads division of Dublin Corporation including intervention measures for traffic direction / calming purposes.

Compliance

The Developer has noted this condition and will adjust their management systems accordingly, in the short and longer terms.

Should further refinement be required by Dublin Corporation as a matter of detail, we would anticipate that these matters can be resolved between the parties as the project progresses.

We trust therefore that compliance has been attained with regard to this Condition and anticipate the planning authority's agreement.

Condition No. 13 (cul-de-sac at Temple Road)

The gateway at the end of the unnamed cul-de-sac off Temple Road shall be used by vehicular traffic as an egress only unless planning permission for an alternative traffic flow system and access arrangement shall have been granted.

Reason: to define the nature of the development being permitted having regard to the details of the development as indicated on the plans submitted to and received by the planning authority on the 7th day of October 1999

Interpretation:

This condition relates to the new gateway formed in the modified planning application of October 1999. The modified application stated that this was an egress on certain documents and this condition appears to have arisen as a result of a debate on the meaning of this word at the Oral Hearing.

Relevant Extracts from An Bord Pleanála Inspector's Assessment

"I consider that the provision of a gateway at the end of the cul-de-sac off Temple Road would to some extent alleviate traffic at the Darty Road junction even if this gateway is only used as a vehicular exit from the development as indicated on some of the drawings submitted. Having regard to the ambiguity in relation to the vehicular circulation system in the plans submitted and the public notice inserted at the request of An Bord Pleanála I consider that if planning permission is being granted it would be reasonable to impose a condition stating that the gateway at the end of the cul-de-sac from Temple Road shall be used as an alternative egress from the development only. The reason for the condition would be to define the nature of the development being permitted having regard to the application as made to the planning authority."

Impact

This gateway will be limited to vehicular egress only. This is of no consequence to the operation of Trinity Hall and will enhance the vehicle flow diagram possibly ameliorating difficulties in egressing onto Darty Road. The use of this gate as an entrance for service vehicles appears now to be prohibited.

Further to the development of the site compound drawing and with especial reference to minimising impact on trees we have established that the entrance gates at Temple Road can be utilised temporarily as "live site" entrance for the duration of the works under exempted development (Class 15 of the Second Schedule of SI 86 of 1994).

This has been expertly confirmed as adequate legislation for allowing the gateway to be utilised for vehicular access during the construction period only.

Compliance

The Developer has noted this condition and will adjust their management systems accordingly, in the short and longer terms.

We trust therefore that compliance has been attained with regard to this Condition and anticipate the planning authority's agreement.

Condition No. 14 (Trinity Hall)

Details of all modifications to Trinity Hall and of the proposed atrium link between Trinity Hall and the sports hall shall be the subject of an application for approval

Reason: To ensure that the details of any modifications to the existing protected structure do not detract from the architectural integrity of the structure and in the interest of preserving the architectural heritage of the area.

Interpretation:

This condition relates to Trinity Hall and requests more detail on the level of intervention at this protected structure. The condition is clearly worded in the use of the term "approval" in lieu of "agreement". It is clear from this that the atrium link will be necessarily subject to an approval application and cannot be developed until such an approval is attained.

Relevant Extracts from An Bord Pleanála Inspector's Assessment

"The public notice in relation to the application refers to the refurbishment of Trinity Hall. Little detail however was submitted in relation to the extent to which Trinity Hall was to be refurbished. At the oral hearing it was stated that the refurbishment would involve the removal of the existing kitchen and the conversion of existing kitchen and storage areas to use for office and storage areas. It was also stated that the development proposed would also involve linkages from Trinity Hall into the building proposed to the North i.e. building no. 1. In response to a question from the Inspector, it was stated that the atrium proposed to the rear of Trinity Hall would be to a later detail. Having regard to the Local Government (Planning and Development) Act 1999, which came into effect since the decision of the planning authority and which gives the status of protected structure to Trinity Hall (a building listed in the Development Plan) I consider that details of all modifications proposed to Trinity Hall and details of the atrium proposed to link Trinity Hall to Building 1 should be the subject matter of an application for approval."

Impact

The extent of building 1, which exists independent of the atrium, has been discussed with Dublin Corporation. It was noted that the demolitions to the sports hall are to proceed and the new brick wall was to be instated along the edge of the sports hall as part of building 1.

The proposed atrium link referred to in the permission is deemed to mean the enclosed glazed space between this wall and the protected structure Trinity Hall with its associated circulation etc. This is the item for approval.

This area has been refined in the intervening period to allow for Building 1 to be constructed without intervention with Trinity Hall as indicated on the drawings. Any note in the documents remaining that may refer to refurbishment of Trinity Hall interiors relates to minor and exempted upgrading works only.

Compliance

The documents have been revised with a view to reflecting the spirit of this condition after some consultation with the planning authority. The necessary application for approval of the atrium link will proceed at a later date.

We trust therefore that compliance has been attained with regard to this Condition and anticipate the planning authority's agreement.

Condition No. 15 (archaeological assessment)

"No excavations or site preparatory works other than the demolition of structures above ground level shall be carried out until an archaeological assessment of the site has been prepared by a qualified archaeologist. The assessment shall address the archaeological and historical background of the site, the nature, extent and location of archaeological material on the site and the impact of the proposed development on such archaeological material. The assessment shall be prepared on the basis of trial trenches excavated on the site by the archaeologist. A written report containing the results of the archaeological assessment shall be submitted to the planning authority on completion. Any additional archaeological requirements of the planning authority shall be carried out including necessary archaeological excavation or the preservation in situ of archaeological remains as requested by the planning authority following the receipt of the archaeological assessment. Details of the extent of the archaeological assessment shall be agreed between the developer and the planning authority prior to the assessment being carried out."

Reason: to protect the archaeological and cultural heritage of the site."

Interpretation:

This condition relates to the archaeological assessment of the site and arises from some heated debate at the Oral Hearing, mostly centring about the significance of Rathmines Castle and the historic Battle of Rathmines.

Relevant Extracts from An Bord Pleanála Inspector's Assessment

"The significance of the lands from the point of view of the archaeological heritage has been addressed in Chapter 15 of the EIS and at the oral hearing. I note the arguments put forward particularly by Mr. Garvan on behalf of the appellants in relation to the importance of the Battle of Rathmines which took place in the vicinity of Rathmines Castle. I do not however consider that this battle is regarded as of such significance on a national basis that the possible site of the battle should be retained undeveloped although it is located within a services area relatively close to the city centre. Whilst the battle may have been of significance I note that it is stated in the EIS that the entire battle lasted only two hours. The exact site of Rathmines Castle has not been clearly identified. The evidence available suggests that it was located towards the northeastern end of the site of the development proposed in the current application or outside the site. I consider that a condition in relation to an archaeological assessment and monitoring is required if permission is granted."

Impact

This condition requires an independent archaeological assessment to be carried out, a licence secured and the relevant assessment, reportage and approvals to be completed and secured prior to commencement of the development.

The extent of Assessment necessary was clarified by consultation with Daire O'Rourke, City Archaeologist, and Margaret Gowan, Project archaeologist, carried out the appropriate assessment.

Compliance

The archaeological assessment is complete and enclosed with these documents at Appendix G of this report. The assessment trenches failed to locate any deposits of archaeological significance, and the proposed Development will not affect any boreholes yielding items of interest. Any further mitigation measures will be made in consultation with Duchas, the Heritage Service, and the planning authority.

We trust therefore that compliance has been attained in relation to this condition.

Condition No. 16 (noise)

Noise levels emanating from plant serving the proposed buildings shall not exceed a maximum level of 45 dB(A) leq when measured over any 15-minute period at any location at the site boundaries.

Reason: To protect the amenities of residential properties in the vicinity

Interpretation:

This condition relates to Noise levels in the site vicinity associated with plant. The condition apparently arises from detailed speculation at the Oral Hearing.

The location and nature of boiler plant rooms was subject to in-depth scrutiny during both the Oral Hearing and the High Court Leave Application Hearing. It was clarified that there was sufficient information in the application indicating plant rooms and the nature and impact of plant systems at these hearings.

Relevant Extracts from An Bord Pleanála Inspector's Assessment

"I accept that the proposed development will result in additional activity in the area. I also accept that this will have some consequences for residents in the vicinity. I consider however, that this is an inevitable part of urban living. Darty Road however is a relatively busy road at present particularly during the morning and evening peak hours. I would also point out that there is a relatively small number of residential properties with direct views towards the site and with direct frontage onto Darty Road, Temple Road or the part of Palmerston Park onto which the site has frontage. In the circumstances, a relatively small number of property owners and residents would be directly affected. Insofar as noise emanating from the buildings is concerned, I consider that this is essentially a matter of management and control by the college authorities. I consider that noise from plant should be controlled by condition. I consider that there is no reason to believe that the development would be operated in such a way as to give rise to significant injury to the amenities of properties in the vicinity. If the lands were to be re-developed for apartments I consider that similar problems would be likely to arise without the same level of potential control."

Relevant Extract from the Original April 1999 Architect's Planning Report

"Ancillary top-storey areas such as plant rooms, water stores and lift over-runs are designed to be discrete and invisible from any point on the ground. At no point in the development will these areas break the ridge line of the overall roof."

Impact

It is noted that the Plant location at high level roofspace on the courtyard side of the buildings significantly minimises implications of Plant noise, but in any case the Condition will be met by the most appropriate means as designed by the M&E Services Engineers.

Compliance

To address any ambiguity as to location of plant rooms, the documents have been supplemented in the enclosed package with roofspace plans delineating the precise location of these plant rooms in the interest of clarity.

The design team's mechanical and electrical consultants have provided a letter dealing with the issue. This letter is enclosed. We trust therefore that compliance has been attained with regard to this Condition and anticipate the planning authority's agreement.

Condition No. 17 (gate lodge)

- 1 "Prior to the demolition of the existing gate lodge, a detailed architectural survey of the building including detailed floor plans and a detailed photographic survey shall be prepared and submitted to the planning authority
- 2 Details of the proposed porter's station adjacent to the proposed building number 2 shall be submitted for approval. The development shall be carried out in accordance with such approval.

Reason: To conserve a photographic record of the existing lodge and in the interest of visual amenity"

Interpretation:

This condition relates to the existing gate lodge and requests a detailed architectural and photographic survey of this building prior to its demolition.

It also requests further detail on the proposal for the single-storey contemporary sentinel building. The condition is clearly worded in the use of the term "approval" in lieu of "agreement". It is clear from this that the porter's station will be necessarily subject to an approval application and cannot be developed until such an approval is attained.

Relevant Extracts from An Bord Pleanála Inspector's Assessment

"The development as proposed would allow for the retention of the existing listed buildings on the site. It would however result in the loss of the lodge building at the Darty Road frontage. This lodge building is quite an attractive feature in the existing streetscape. It relates better however to the existing domestic scale of the architecture of the area and it is not listed for preservation or protection in the Development Plan. Having regard to the necessity to provide reasonable sightlines at the entrance and the civic design concept of creating an access from Sunbury Gardens to the central spine of Building No. 1 I consider that the loss of the existing lodge building is an unfortunate consequence of the re-development. I do not however consider that this loss is so significant as to justify a refusal of planning permission.

"It could be argued that the existing lodge is part of the protected structure having regard to the Local Government (Planning and Development) Act 1999. Structure is defined in that Act as including land lying within the curtilage of the structure and any other structures lying within that curtilage. There is however, some ambiguity in the definitions as a protected structure as defined in the Act may refer to a specified part of a structure. I consider that it would be unreasonable to extend the definition of the protected structure in the current case to include all buildings within the lands owned by Trinity College. Such an interpretation would give protected structure status to Cunningham House, the Botany Department Buildings, the sports hall, and the link building between Purser House and Trinity Hall. These buildings generally are not of a significant architectural quality. There is no direct relationship between the lodge building and the listed buildings on the site although functionally there may have been a relationship when the lodge and Trinity Hall were originally constructed.

Having regard to the extent of mature trees on the site, I do not consider that the removal of the lodge would significantly affect the setting of the listed buildings. I do not consider that the lodge helps to define the special interest and character of the listed buildings as referred to in Annex 6 of the Draft Architectural Conservation Guidelines for Planning Authorities prepared by Duchas. Although the guidelines refer to items within a curtilage, they do not define the meaning of curtilage as used in the legislation. The statement in paragraph 2.3.3.2 that broadly speaking the curtilage is a parcel of land which has an intimate connection with a particular structure is of little benefit in this

current case. In the circumstances I consider that it would be unreasonable to conclude that the demolition of the lodge should not be permitted on the basis of Section 8, Sub-section 10(b) of the Local Government (Planning and Development) Act, 1999, which states that a planning authority or the Board on appeal shall not grant permission for the demolition of a protected structure save in exceptional circumstances."

And regarding item 17(2) above:

"The proposed ground floor 'porters station' indicated on the plans could more appropriately 'echo the sentiment' of the lodge. On the elevational drawings submitted, an outline only of the 'new sentinel gate building' is indicated (plan no. 980461218 south elevation). I consider that details of this building should be submitted for approval."

Impact

The gate lodge will need to be adequately recorded prior to Development. The porter's station is subject to an approval application in the traditional sense.

Compliance

In order to follow the most appropriate Architectural Conservation course, The Irish Architectural Archive were commissioned to carry out the detailed surveys required. The Resulting Survey is included with this document at Appendix H of this report.

The Gate Lodge is therefore appropriately and adequately recorded and we seek agreement from Dublin Corporation to proceed with its demolition.

The necessary application for approval of the contemporary porter's station will proceed at a later date.

We trust therefore that compliance has been attained with regard to this Condition.

Condition No. 18 (contribution)

"The developer shall pay a sum of money to the planning authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of works facilitating the proposed development. In calculating the amount of the contribution, allowance shall be made for the floor area of existing buildings to be demolished. The amount of the contribution and the arrangements for payment shall be agreed between the developer and the planning authority or, in default of agreement, shall be determined by An Bord Pleanála.

In the case of expenditure that is proposed to be incurred the requirement to pay this contribution is subject to the provisions of section 26(2)(h) of the Local Government (Planning and Development) Act 1963 generally, and, in particular, the specified period for the purposes of paragraph (h) shall be the period of seven years from the date of this order.

Reason: It is considered reasonable that the developer should contribute towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of works facilitating the proposed development."

Interpretation:

This condition relates to the contribution to be made to the Corporation by the applicant. It relates to Condition no. 14 of the superceded grant of permission in November 1999 which requested that a sum of £395,279.00 be contributed to the local authority, which was appealed by the College.

The applicant appealed this sum on the grounds that it did not take into consideration the fact that the overall area would substantially gain from the works to the existing sewer proposed to be carried out at the applicants' expense. It was submitted that this cost should be somehow offset against the sum of contribution required.

In addition, the sum appears to have been calculated based on the overall proposed area without discounting areas for demolition.

Relevant Extracts from An Bord Pleanála Inspector's Assessment

"The applicant has appealed against the amount of contribution sought in condition no. 14. It was however submitted that it would be appropriate to leave the amount of contribution for agreement between the planning authority and the developer or failing agreement to be as determined by An Bord Pleanála. I accept the argument that provision should be made for the extent of areas to be demolished being deducted from the size of contribution. I consider that the issue can be appropriately addressed by way of a standard condition with the amount of the contribution being agreed between the developer and the planning authority or failing agreement to be as determined by An Bord Pleanála."

And again:

"I accept the argument made on behalf of the applicants that the provision of this sewer would be of benefit to a wider area. There is little remaining undeveloped lands in the immediate vicinity. It appears that the Corporation is accordingly endeavouring to secure the improvement entirely at the applicant's expense. It is unlikely that it will be possible to levy significant contributions for this specific work from other developments in the area."

Impact

An Bord Pleanála's inspector has acknowledged above the difficulties noted in the applicant's appeal on this subject. It is therefore not unreasonable to expect that some favourable negotiation can be achieved between the parties with regard to the amount of the Contribution required.

Condition No. 18 (contribution) (contd.)

Compliance

It is proposed that the developer meet with Dublin Corporation's relevant Department specifically to determine the amount of this Contribution. Direction is sought from the planning authority as to the correct procedure for this process and the relevant personnel to contact for discussion of the issue. It is assumed at this time that the appropriate department is the Corporation's Registry Division.

As noted previously, any offset with regard to the sum contributed for works on the sewer should be negotiated after full agreement has been attained with regard to the programme and methodology for that work. The monies to cover this work as noted above at Condition 10 have been agreed between the parties, and the work as undertaken by Dublin Corporation is nearing completion.

It is clear that the above condition does not express a requirement to determine the amount of the Contribution or to agree the amount in writing or otherwise prior to the commencement of Development.

It is therefore assumed that written agreements secured on the foot of this submission will suffice for a commencement notice to be lodged with the Building Control Authority and for Development to commence. In any case, the issue is desired by all parties to be resolved as soon as is practically possible.

Condition No. 19 (bond)

"Prior to commencement of development the developer shall lodge with the planning authority a bond of an insurance company or other security acceptable to the planning authority to secure the satisfactory completion of the proposed landscaping works, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of the landscaping works. The amount of the security shall be agreed between the planning authority and the developer or, in default of agreement, shall be determined by An Bord Pleanála."

Reason: to ensure the satisfactory completion of landscaping works and in the interest of visual amenity."

Interpretation:

This condition relates to the contribution to be made to the Corporation by the developer. It relates to Condition no. 9 (a) of the superceded Dublin Corporation grant of permission in November 1999, which requested that a sum of £350,000.00 be lodged as a bond, which was appealed by the College. The College's basis for appealing this condition was simply to address the ambiguity in the wording of the original Dublin Corporation permission Condition, where it was unclear whether the bond was to be a cash or and insurance bond.

Relevant Extract from An Bord Pleanála Inspector's Assessment

"I have some reservations about the principle of imposing a condition such as Condition No. 9 (a) of the planning authority's decision. There is no specific provision in planning legislation for requiring such a bond particularly as insurance against the felling or damage to trees schedules for retention. Sub-section 26(1)(2)(e) of the Local Government (Planning and Development) Act 1963 refers to conditions requiring the giving of security for satisfactory completion of a proposed development including maintenance until taken in charge by the local authority of roads, open spaces, car parks, sewers, watermain or drains. This appears to be the only legal basis for requiring the giving of security. The local authority would not get involved in taking in charge any facilities within the Trinity College site at Trinity Hall. I also consider that it is unlikely that the local authority would get involved in carrying out landscaping works. Irrespective of this however such security has often been required in planning decisions to ensure the satisfactory completion of landscaping works. In the circumstances, I consider that a standard condition in relation to the giving of security to ensure the completion of landscaping works would be appropriate. I consider the amount of that security should be agreed between the developer and the planning authority or falling agreement should be determined by An Bord Pleanála. The information at the oral hearing in relation to the size of the security was inadequate to allow this issue to be determined."

Impact

An Bord Pleanála's inspector has noted the ambiguity of the wording of the original condition and has clarified that the bond is to be an insurance, and not a cash, bond. The amount is clearly to be agreed between the developer and the planning authority.

Condition No. 19 (bond) (contd.)

Compliance

It is proposed that the developer meet with Dublin Corporation's relevant Department specifically to determine the amount of this insurance bond. Direction is sought from the planning authority as to the correct procedure for this process and the relevant personnel to contact for discussion. It is assumed at this time that the appropriate department is also the Corporation's Registry Division. It is clear that the above condition does not expressly require determination of the amount of the insurance bond or agreement of the amount in writing or otherwise prior to the commencement of Development. It is therefore assumed that written agreements secured on the foot of this submission will suffice for a commencement notice to be lodged with the Building Control Authority and for Development to commence. In any case, the issue is desired by all parties to be resolved as soon as is practically possible.

Appendices / over

APPENDIX A
CURRENT AN BORD PLEANALA PERMISSION 4TH AUG '00

APPENDIX E
CORRESPONDENCE WITH DUBLIN CORPORATION DRAINAGE DIVISION
(CONDITION NOS. 10 & 11)

APPENDIX B
SUPERCEDED DUBLIN CORPORATION PERMISSION NOV '99



DUBLIN CORPORATION

Planning & Development Dept.

Roinn Pleanála agus Forbairt

BARDAS AITHA CLATH



APPLICATION NO: 1101/99
REGISTRATION DATE: 13/04/1999
DECISION DATE: 11/11/1999
DECISION ORDER NO: P5711

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Dublin 8

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An Ché Adhmaid
Baile Aitha Clath 8

Murray O Laoire Architects,
Architects, Planners, Urban Designers,

Fumbally Court,
Fumbally Lane,
Dublin 8.

LOCATION : Trinity Hall, Darry, Dublin 6.

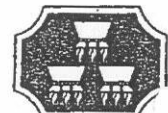
PROPOSAL : Further to Dublin Corporation correspondence dated 14th

of
September, 1999 requesting the submission of revised
plans
in accordance with Article 35 of the Local Authority
(Planning and Development) regulations, 1994 and in
compliance with the provisions set out within said
correspondence:

The Provost, Fellows and Scholars of the University of
Dublin, Trinity College seek full planning permission for
the construction of new student halls of residences at
Trinity Hall, Darry, Dublin 6. For continued
institutional
use, or as described in Class Definition "Buildings for
the
Health Safety or Welfare of the Public (b)" in the Dublin
City Development Plan 1999, comprising approximately
25,000
sq.m. of development incorporating:

■ 3 no. New Student Residence Buildings to contain
832
no. bedrooms arranged in 180 no. Apartments over
3
to 7 storeys.

■ New central support facilities at one ground
floor
to include new 400 seater dining facility,
laundrette, student shop, reception and
associated
stores and offices.



DUBLIN CORPORATION

Planning & Development Dept.

Roinn Pleanála agus Forbartha

BARDAS ÁTHA CUATH



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Returbishment of Trinity Hall (which is a listed (List 2) building)

Removal of single-storey gate lodge to facilitate new relocated entrance to site, of existing 3-storey

link block between Trinity Hall and Purser House, 3-storey annexe to Trinity Hall and of existing 2-storey glazed lobby to Sports Hall.

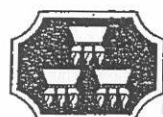
New atrium between Trinity Hall and Sports Hall with associated upgrading of Sports facility.

Associated new ancillary works to include a new avenue and enclosed arboretum aligned with Sunbury Gardens; new perimeter treatment of site boundary; new square for vehicular and pedestrian use; hard features; and other landscaping and services installations intrinsic to the Development.

The revised application involves the retention of existing trees at the Western Arboretum and Site Perimeter and is accompanied by a comprehensive management plan for the treatment of existing and proposed trees.

This modified submission is accompanied by a revised Environmental Impact Statement and may be inspected during office hours at the Planning Department, Dublin Corporation, Block 4, Civic Offices, Wood Quay, Dublin 8.

APPLICANT: The Provost, Fellows and Scholars of The University of Dublin, Trinity College, Dublin 2.



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APPLICATION

TYPE: Permission

NOTIFICATION OF DECISION TO GRANT PERMISSION

In pursuance of its functions under the Local Government (Planning & Development) Act 1963/93 the Corporation of Dublin, being the Planning Authority for the County Borough of Dublin has by order dated 11/11/1999 decided to GRANT PERMISSION for the development described above, subject to the following condition(s).

CONDITION(S) AND REASON(S) FOR CONDITION(S)

1 Insofar as the Local Government (Planning & Development) Acts 1963/93 and the Regulations made thereunder are concerned the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as amended by Additional Information received by the Planning Authority on 7 October 1999 and save as may be required by the conditions attached hereto.

For the avoidance of doubt, this permission shall not be construed as approving any development shown on the plans, particulars and specifications, the nature and extent of which has not been adequately stated in the statutory public notices.

REASON: To comply with permission regulations.

2 Notwithstanding the Local Government Development (Planning and Development) Regulations 1994, as amended the proposed development at Trinity Hall shall not be used for any purpose other than that specified as student residences and shall not be used by persons other than those whose purpose is education at the University of Dublin, Trinity College. Reason: To clarify the planning status of the development, to control the nature of the uses in the building and in the interest of the proper planning and development of the area.

3 The central facilities block and sports hall shall be for the sole use of occupants of the student apartments at Trinity Hall. No organised social events which would cause music or other amplified sounds to be emitted onto the nearby public roads or which would be carried out in such a manner so as to cause nuisance to nearby properties shall be permitted on this site.

Reason : In order to protect the character and integrity of the adjoining residential conservation area, to comply with the provisions of the 1999 Dublin City Development Plan, to increase transparency into the site, to open up views of mature trees and listed buildings within the site and to

Precise details in this regard to include revised elevations, sections, floorplans and the location of revised boundary treatment showing the necessary modifications shall be submitted for the written agreement of the Planning Authority prior to the commencement of development on site.

(v) The site boundaries shall be modified to provide a stone plinth and strong railing treatment.

(iv) The elevational treatment, in particular the window detail and fenestration, of Building Nos. 1, 2 and 3 shall be modified in such a manner so as to introduce a vertical emphasis and a degree of variety throughout;

(iii) The elevational treatment of the six storey 'nodal feature' on the west corner of Building No. 2 at the entrance to the development shall be altered to create a feature building which echoes the sentiment of the gate lodge (to be demolished). In this regard the elevational treatment shall be amended in the form of revised fenestration and external finishes to create a building which is distinct from others within the scheme;

(ii) The elevational treatment of the proposed penthouse level shall be altered so as to increase the void to solid ratio and to create a visually lightweight penthouse level;

(i) The root treatment of the proposed Building Nos. 1, 2 and 3 shall be altered in such a manner so as to provide stronger roof profiles with pitched surfaces clearly evident from street levels and surroundings with emphatic eaves detailing;

The proposed scheme shall be modified as follows:

Reason : In order to protect the amenities of adjoining residential properties in the interest of orderly development.

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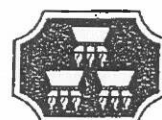
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create an architectural language which is less institutional in character, all in the interest of visual amenity.

Precise details of all external finishes including paving treatments and railing details (to include samples and colours) shall be submitted for the written agreement of the Planning Authority prior to the commencement of development on site. In this regard the roof of the proposed buildings shall be clad in traditional handworked roofing materials only.

Reason : In order to protect the character and integrity of the listed buildings in the interest of visual amenity.
Note : The use of upvc in any part of this development is not acceptable.

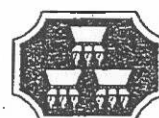
The requirements of the Planning Authority with regard to foul and surface water issues shall be ascertained and strictly adhered to in the permission. In particular;

(a) The existing combined sewer along Temple Road shall be upgraded. A length approximately 390m of existing sewer shall be relaid as a 750 mm diameter sewer at the applicant's expense. The precise line and level of the upgraded sewer shall be agreed in writing with Drainage Division, Dublin Corporation prior to submission of the commencement notice. Improvement/upgrading works shall be carried out on the existing storm overflows on Temple Road at the developer's expense. Precise details in this regard shall be agreed with Drainage Division, Dublin Corporation;

(b) The proposed development shall be drained on a completely separate system with separate connections to the public foul and surface water systems;

(c) A grease trap shall be installed at a suitable location in the private drainage system. The grease trap shall comply with the latest draft of PRN 1825-Part I (Principles of Design, Performance, Testing, Marking and Quality Control) and PRN 1825-Part II (Selection of Nominal Size, Installation, Operation and Maintenance of Grease Separators);

(d) The developer shall limit surface water discharge from site in accordance with the requirements of Drainage Division, Dublin Corporation. Full details of such control



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measures shall be agreed in writing with Drainage Division, Dublin Corporation prior to commencement of development on site;

(e) The developer shall submit two copies of a revised site drainage plan directly to the Drainage Division of Dublin Corporation for written approval. These plans shall be submitted not later than the submission of the commencement notice for the development and drainage works shall not under any circumstances commence prior to the submission of the above plans.

Reason : In the interest of public health.

The requirements of the Planning Authority with regard to water supply issues shall be ascertained and strictly adhered to in the permission. In particular;

(a) Where it is intended to install a booster pump(s) precise details of the proposed installation shall be submitted for the written agreement of the Water Division of Dublin Corporation prior to the commencement of development on site. All booster pumps in excess of 10 litre/min capacity shall be fed from a break cistern. The effective capacity of a break water cistern shall be decided after consideration of the total water storage requirements and its location within the building but shall not be less than 15 minute pump output;

(b) The developer shall ensure that before work commences all proposed water installations shall conform with the Water Divisions Waterworks Regulations. Reason : In the interest of public health and orderly development.

The requirements of the Planning Authority with regard to roads and traffic issues shall be ascertained and strictly adhered to in the permission. In particular;

(a) All costs incurred by the Corporation including any repairs to the public road and services necessary as a result of development shall be at the expense of the developer;

To: <i>Limburg</i>	Post-Notes 7659
Fax: <i>679 3799</i>	
From: <i>Wood</i>	
Date: <i>12.11.99</i>	
Pages: <i>1</i>	

5 Telefax

(c) No development shall take place within the crown spread of trees identified on the lodged plans for retention, i.e., construction of boundary walls, footpaths etc. Where existing paths are to be upgraded details of all materials shall be submitted for the written agreement of the Parks and Landscape Services Division of Dublin Corporation prior to the commencement of development on site;

(b) Prior to the commencement of development on site the developer shall consult with and agree all necessary measures to protect all trees within the boundary of the site with the Parks and Landscape Services Division of Dublin Corporation;

This bond shall be returned with the accrued interest upon satisfactory completion of all agreed landscape and tree surgery works including the care and retention of trees. This bond may be withheld in whole or part if the landscape and tree surgery works below are not implemented to the satisfaction of the Parks and Landscape Services Division.

- * Felling or damage to trees scheduled for retention.
- * unsatisfactory completion of the tree surgery works;
- * Incompletion, partial incompletion or unsatisfactory completion of the landscape works;
- * Incompletion, partial incompletion or unsatisfactory completion of the landscape development on site as an assurance against;

(a) A cash bond of £350,000 shall be lodged with the Planning Authority prior to the commencement of development on site as an assurance against;

The requirements of the Planning Authority with regard to trees and landscaping issues shall be ascertained and strictly adhered to in the permission. In particular;

(c) Details of the entrance treatment shall be submitted for the written agreement of the Road Maintenance Engineer, Dublin Corporation prior to the commencement of development on site;

(b) Cycle parking shall be located in secure, covered areas;

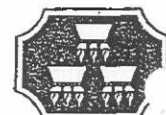
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(d) The following shall not be carried out under the canopy spread of any trees shown on lodged drawings as being retained without the written consent of the Planning Authority:

- levels shall not be raised or lowered in relation to the existing ground level;
- no roots shall be cut, trenches dug, or soil removed or drains and services laid;
- no buildings, site huts, roads, or other engineering operations shall be constructed or carried out;
- no vehicles shall be driven over the area; no materials or equipment shall be stored.

(e) All trees to be retained, as indicated on lodged plans shall be protected during the development with a continuous 1.75 metre high timber post and rail fence. The fence shall enclose the crown spread of all the trees and shall be erected prior to the commencement of the development and shall be maintained to standards agreed with the Planning Authority during the course of development;

(f) Services and utilities shall not be laid within 10 metres of trees to be retained;

(g) All landscape works shall be completed within 12 months of the completion of the last building on site.

Reason: To protect the sylvan character of the site in the interest of orderly development.

The areas shown as open space on lodged plans shall be planted and landscaped to the satisfaction of the Planning Authority and shall be available for use by the students on completion of their apartments.

Reason: In the interest of residential amenity and visual amenity.

11 The requirements of the Planning Authority with regard to archaeological issues shall be ascertained and strictly adhered to in the permission. In particular:

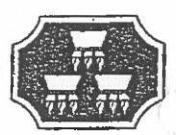
- (a) No construction or site preparation work other than demolition work shall be carried out on the site until all archaeological requirements of the planning permission have been complied with;
- (b) The developer shall have an archaeological assessment of the site of all proposed building



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Fax. (01) 670 7861 DECISION DATE: 11/11/1999
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DECISION ORDER NO: P5711

BARDAS ATHA CLATH
Roimn Pleanála agus Forbartha
Blac 4
Oifigí na Cathrach
An Ché Adhmaid
Baile Átha Cliath 8

DUBLIN CORPORATION
Planning & Development Dept.
Block 4
Civic Offices
Wood Quay
Dublin 8
Tel. (01) 672 2149
Fax. (01) 670 7861
www.dublincorp.ie



The developer shall comply with the following requirements during the construction phase;

a) During the construction phase of development the best practicable means shall be employed to minimise air blown dust being emitted from the site. This shall include covering skips and slack heaps, netting of scaffolding, daily washing down of pavements or other public areas and any other precautions necessary to prevent dust;

b) During construction works on site all necessary steps to contain dust arising from the demolition shall be taken so as to prevent a nuisance being carried out to occupiers of other buildings in the locality. This shall include covering skips and slack heaps, netting of scaffolding, daily washing down of pavements or other public areas, use of water spray on demolition site to suppress dust and other precautions necessary to prevent dust and

Reason : In order to protect the archaeological integrity of the site.

The developer shall comply with the following requirements during the construction phase;

a) During the construction phase of development the best practicable means shall be employed to minimise air blown dust being emitted from the site. This shall include covering skips and slack heaps, netting of scaffolding, daily washing down of pavements or other public areas and any other precautions necessary to prevent dust;

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APPLICATION NO: 1101/99
 REGISTRATION DATE: 13/04/1999
 DECISION DATE: 11/11/1999
 DECISION ORDER NO: P5711



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Signed on behalf of the Corporation of Dublin
For Assistant City Manager
Date 11/11/98

Before this development commences a financial contribution in the sum of £395,279.00 shall be paid by the applicant to Dublin Corporation, in accordance with Section 26 of the Local Government (Planning & Development) Act 1963. Reason: Investment by Dublin Corporation in local Authority works has facilitated and will facilitate the proposed development. It is considered appropriate and reasonable that the developer should contribute to the cost of same.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development and to protect the amenities of adjoining residential properties. Balconies and terraces shall not be used for storage or for any additional structure (e.g. sheds or for washing lines, T.V. aerials etc.). No development shall take place in these areas without a prior grant of planning permission. Reason: In order to protect the amenities of the adjoining Residential Conservation Area in the interest of visual amenity.

Reasons during the demolition phase:
c) The site and building works required to implement the development shall only be carried out between the hours of 8.00 a.m. and 6.00 p.m. Monday to Friday and between 8.00 a.m. and 1.00 p.m. Saturdays and not at all on Sundays or Bank Holidays;
d) The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

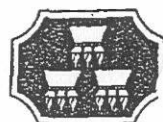
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The applicant should note that development on foot of this Decision to grant may not commence before a notification of final grant has been issued by the Planning Authority or An Bord Pleanála following consideration of an appeal.

NOTES:

Appeals must be received by An Bord Pleanála within ONE MONTH beginning on 11/11/1999. (N.B. not the date on which the decision is sent or received). This is a strict statutory time limit and the Board has no discretion to accept late appeals whether they are sent by post or otherwise. The appeal MUST BE FULLY COMPLETE in all respects - including the appropriate fee - when lodged. It is not permissible to submit any part of it at a later date, even within the time limit.

Refund of fees submitted with a Planning Application. Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications relate to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of two months beginning on the date of the Planning Authority's decision on the second application. For full details of fees, refunds and exemptions the Local Government (Planning & Development) Regulations, 1994 should be consulted.

APPENDIX C
REQUEST FOR SUBMISSION OF REVISIONS UNDER ARTICLE 35 SEPT '99



DUBLIN CORPORATION

BARDAS ATHA CLIAITH

Planning & Development Dept.

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APPLICATION NO: 1101/99
Tel. (01) 672 2149
Fax. (01) 670 7861
DECISION DATE: 14/09/1999
DECISION ORDER NO: P4618
www.dublincorp.ie



Murray O Laoire Architects,
Architects, Planners, Urban Designers,
Rumbally Lane,
Rumbally Court,
Dublin 8.

murrayo'laoire architects
16 SEP 1999

Date : 14th September 1999

DESCRIPTION :

For institutional use, incorporating: 9 no. New Student Residence buildings to contain 905 no. bedrooms arranged in 180 No. apartments over 3, 4 and 5 storeys. New central support facilities at one ground floor to include laundryette, student shop, reception and associated offices; Refurbishment of Trinity Hall (which is a listed (List 2) building) to provide new 400 seater dining facility at rear; annex with associated kitchens and new atrium to rear; Removal of a single-storey gate lodge to facilitate new relocated entrance to site, removal of existing 3-storey link block between Trinity Hall and Purser House and removal of existing 2-storey glazed lobby to Sports Hall; Associated new ancillary works to include a new square designed for vehicular and pedestrian use; hard and soft landscaping and courtyards; new water feature; and other landscaping and services installations intrinsic to the development. The application is accompanied by a comprehensive management plan for the treatment of existing and proposed trees; This planning application is accompanied by an Environmental Impact Statement.

LOCATION :

Trinity Hall, Dартry, Dublin 6.

APPLICANT :

The Provost, Fellows and Scholars of
The University of Dublin,
Trinity College,
Dublin 2.

Dear Sir/Madam,

I am directed by the Assistant City Manager to request that you submit revised plans in accordance with Article 35 of the Local Government (Planning & Development) Regulations 1994 which shall make provision for the following:



recycled paper

- 1 A 'green' zone to be retained along the Palmerston Park frontage. This zone to be retained free of development in order to protect the open character of the land and existing trees at this location and to provide an open line of vision from the southern perimeters of Palmerston Park along the site culminating in the existing arboretum in the western portion of the site.
- 2 Opening up of existing site boundaries by means of a strong railing and stone plinth wall (the existing boundary walls particularly along Dартry are visually poor and impenetrable) to increase transparency into the site to open up views in order to allow passers-by enjoy the mature trees and listed buildings within the site, which at present can only be enjoyed at intervals and to integrate the proposed development with surrounding streetscape.
- 3 Provision of a 'street' scene along the Dартry Road frontage similar to the strong sense of streetscape experienced along Palmerston Park and Palmerston Road.
- 4 Introduction of a new avenue into the scheme aligned to the formal entrance to Sunbury Gardens to create a linear expression and degree of continuity. The entrance to the scheme to be modified to create continuity with Sunbury Gardens and to maintain views of the interior of the site.
- 5 The replacement of the existing gate lodge at the entrance with a feature building which echoes the sentiment of the gate lodge.
- 6 The central support facility to form an important feature building within the site, highly visible from the entrance, creating a vista and easily identifiable from the remaining buildings as a focal point for the scheme. This building to respect the importance of the listed buildings at Trinity Hall and Purser House and is not to intrude on the amenity of Palmerston Park.
- 7 The extent of hard landscaping/paving on the site to be reduced in order to create a softer landscape more in keeping with the character of the site and surrounding area. The 'green belt' along the site perimeter to be retained and the water feature to be modified.
- 8 The location of car parking spaces within the scheme to be delineated and to be dispersed and screened as much as possible as well as providing for possible future expansion.
- 9 The architectural language to be subtle, more domesticated and less institutional in character with the use of red brick and stronger roof profiles with pitched surfaces clearly evident from street levels and surroundings. These roof surfaces are to have emphatic eaves detailing.



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Traditional handworked roofing materials of darker colours rather than industrial style roof decking is required.

10 The applicant shall submit a new newspaper notice and erect or fix a new site notice in accordance with Part IV of the Local Government (Planning and Development) Regulations 1994. These notices shall fully describe the revised scheme.

Signed on behalf of the Corporation of Dublin
 for Assistant City Manager

Date: 14/9/99

COMPLETED ARBORIST'S ASSESSMENT
(CONDITION NO. 9)

APPENDIX D

Impact of the proposed development on existing trees

It is proposed to remove 46 trees, eight of which are in good condition, together with some mature shrubs. Of these, only two are significant trees, one is a large mature specimen, a Lime (973) and the other a pair of yews. The others are small trees, a hazel, a cherry, a holly and two young trees, which it may be possible to transplant. The remaining trees being removed have been professionally assessed and are considered to be of poor quality, in decline with limited potential or considered to be in a hazardous condition.

Notwithstanding a development on the site, good arboricultural management would necessitate the removal of these trees, some immediately, and others in the short to medium term.

Any requirements to remove trees considered to be in poor condition, are not influenced by the imperative of building, but rather good management practices. 38 trees of the 46 scheduled for removal are not affected by any new development and their removal is solely in keeping with good management practices.

The proposed development will not alter the criteria for the retention or removal of trees along the boundary with Darry Road or Temple Road. All landowners have a statutory obligation under the Roads Act 1993 to ensure their trees are not a potential hazard to road users. The trees along the boundary have been assessed using these criteria. Any building on the other side of the line of trees will not increase the current hazard rating of the trees.

Part of the site has been planted with trees that could be considered rare in the overall population of trees in the Dublin area. These trees have been planted in an ad hoc manner and do not constitute an arboretum, but rather a collection of trees. The trees are for the most part young to early mature. The most significant rare and unusual specimens are; American ash, Gutta-percha, Foxglove, Yellow wood, Tree of heaven, Paper mulberry, Farge's catalpa, Chestnut leaved Oak, Balkan maple, Osage orange, Azarole, Hoheria and Sitka alder. Non of these are effected by the development.

The effect of construction on trees to be retained.

Considerable research has been undertaken on the effects of construction near trees. The result of this research has been published and used to produce guidelines for the protection of trees on development sites.

Trees are most commonly damaged by asphyxiation of the roots, poisoning, root cutting and mechanical and physical damage to the stem and crown.

The British Standard BS 5837 sets out in detail all the measures required for the successful retention of trees on development sites.

This document has been backed up by the National Joint Utilities Group hand book on trenching and cabling near trees, together with research published by Arboricultural Advisory and Information Service regarding "Driveways close to trees" and "Tree Root Systems".

All of this research has enabled arboricultural consultants to prepare detailed specifications for the protection of trees on development sites.

A number of specific issues arise on this site;

- Building close to trees being retained,
- Construction of roads and paved areas close to trees
- Alterations in ground levels close to trees.

Building close to trees.

The first step is to establish the specific protection area for each tree; in general this should extend as far as the crown spread. A more detailed method of assessing the protection area required can be determined by the use of a formula, set out in BS 5837, that takes account of the stem diameter, the age and the vigour of the tree. Once this is determined a solid barrier such as a timber hoarding is erected and maintained for the duration of the construction works.

If there is likely to be heavy/frequent construction traffic using the ground immediately outside the fence, it is recommended that a temporary surface be laid, using a geotextile membrane so as to avoid soil compaction and damage to roots, which extend beyond the protection area.

The proposed construction of new student halls of residence at Trinity Hall, Darryl, Dublin 6 was granted permission by an Bord Pleanála with conditions. Condition 9 stated ".....Services and utilities shall not be laid within 10 metres of the bole of any of the trees to be retained....."

This condition will cause difficulties in relation a number of specific trees. The purpose of this report is to set out the best practice in relation to the retention of trees on development sites with specific reference to any trees, which are within 10 metres of proposed services or utilities.

Background

A detailed tree survey was prepared in July 1998 and a subsequent report in January 1999. The surveys were prepared using the criteria set out by the *Arboricultural Association's Protection of trees on development sites Part 1, BS:5837 Guide for tree in relation to construction*, and *NUJG Guidelines for installing and maintaining utility services close to trees*.

These guides set out a minimum protection area, this allows designers to plan for adequate space around trees during construction and after the completion of the project. The protection area is determined by how much undisturbed space is needed for trees to be retained in good health.

Best Practices

A number of methods are used to determine the extent of the protection area, commonly the drip line (the edge of the crown spread), a method recommended in the *ENFO publication Trees on development sites*

Action sheet 9.

Roads suitable for temporary haul roads can be constructed close to trees, even within the protected area. The recommended method is for a "no dig" construction, using geo-grid membranes and a no fines aggregate such as clause 803. It is proposed to utilise this system of protection between the hoarding and the building where this space comes within the recommended protection area.

The interlock between the aggregate and the geo-grid provides a reinforced platform and efficient load spread into the underlying ground reducing the sub base compaction requirements, thereby avoiding compact damage and allowing gaseous exchange through the substrate.

Paved areas can also be laid close to trees without causing damage. By using a pervious paving material, such as cobble or setts laid on a sub base with good gaseous exchange, there will be no damage to the roots. This can be used for fire tender access. A number of trees will require some remedial tree surgery to facilitate fire tender access. This work has been scheduled below.

Tree number Species Action

980	Pine	Remove the four lowest lateral branches, the second and third lowest on bifurcated stem and two lowest on northern stem.
976	Cypress	Crown lift north side of canopy by removing five small lateral branches.

Tree number Species Action

975	Lime	Crown lift north side of canopy, seven lateral limbs pruned back to the main stem, review and balance the south side crown as required.
961	Red chestnut	Remove lowest major lateral on south side of canopy along with three small branches on main scaffold limbs above it. Possible tip pruning of lowest laterals on southwest side.
960	Horse chestnut	Remove three main laterals from the lower crown on the south side of the canopy, along with two small branches and any truncated limbs.

Alterations in ground levels close to trees

Small alterations in ground levels can be accommodated close to trees, especially when raising ground levels, by using a no fines aggregate that will allow gaseous exchange, when filling within the tree protection area.

The proposed transplanting of trees

Further to my assessment of the existing trees, and a review of the proposed development, I recommended the relocation of five trees. These trees could be easily accessed with suitable tree moving equipment and were small enough to be moved with the available possible to successfully transplant trees with a stem diameter of 35cm and a rootball weighing 6.5 tons. It is also proposed to transplant an additional two trees, a cherry #3753 and the Foxglove # 959.

It is proposed to use one of the leading UK specialised in large tree moving, who have considerable experience in transplanting mature trees. In the past I have supervised such operations and in my experience when done correctly all sizes of trees can be successfully transplanted.

General recommendation

A suitable qualified and experienced Arboricultural consultant should be engaged to supervise all the construction works for duration of the contract.

Joseph M McConville B.Agr.Sc., F.Arbor.A, MILL.
J M McConville & Associates

August 2001

APPENDIX A - TREE REMOVAL SURVEY

Tree No.	Common Name	To be Transplanted	To be Removed	Removed because of design	Removed because poor	Botanical Interest	Comments
934	Oak	X					
938	Ash	X					
940	Alder	X					
957	Larch	X					
958	Larch	X					
937	Tulip Tree	X					
939	Foxglove Tree	X					
973	Common Lime	X					
977	Holly	X					
3753	Cherry	X					
3754	Winter Cherry	X					
3755	Flowering Cherry	X					
3756	Cherry Laurel	X					
3757	Hazel	X					
3758	Irish Yew	X					
979	Holly	X					
3701	Ornamental Cherry	X					The main stem of this tree is mortbound and the crown is comprised of side shoots.
3702	Ornamental Cherry	X					Declining rapidly. Prognosis poor. Remove.
3703	Ash	X					Severely distorted and extending over boundary wall. Unsuitable for retention. Remove.
3705	Sycamore	X					Unbalanced and suppressed. Extending over boundary wall. Unsuitable for retention. Remove.
3713	Holly	X					Exhibiting signs of chronic decline and die-back. Limited future longevity. Consider early removal.
3748	Lawson Cypress	X					Declining rapidly. Unsuitable for retention. Remove.
3748	Cellis spp.	X					Root fracture has led to partial collapse. Remove.
3760	Prunus spp.	X					Distorted, suppressed and leaning. Remove.
3761	Prunus spp.	X					Suppressed, one-sided and unbalanced. Unsuitable for long-term retention. Remove.
3767	Ornamental Cherry	X					Severely cankered, with internal decay. Remove.
3768	Ornamental Cherry	X					Requires extensive cleaning.
3769	Sycamore	X					Truncated and distorted. Minimal future potential.
3770	Sycamore	X					A tall, drawn up whip within part of hedgerow.

Tree No.	Common Name	To be Transplanted	To be Removed	Removed because of design	Removed because poor	Botanical Interest	Comments
3771	Holly		x		x		Part of general holly thicket. No action required at this time.
3772	Sycamore		x		x		A drawn up whip of questionable value.
3773	Euonymus		x		x		A large, ungainly shrub which is suffering ongoing collapse. Unsuitable for retention. Remove.
3774	Sycamore		x		x		Unbalanced towards road and supporting thicker of Holly and Elder. Entangled within boundary rails. Unsuitable for retention. Remove.
3775	Ash		x		x		Multi-stemmed. Localised decay. Unsuitable for retention. Remove.
3776	Sycamore		x		x		A multi-stemmed thicket of naturally arising whips whose value is questionable.
3777	Sycamore		x		x		A multi-stemmed thicket of naturally arising whips whose value is questionable.
3778	Sycamore		x		x		A multi-stemmed thicket of naturally arising whips whose value is questionable.
3779	Sycamore		x		x		A multi-stemmed thicket of naturally arising whips whose value is questionable.
3780	Holly		x		x		Part of general holly thicket, extending for some 20m towards Darty Road. Individual specimens may be suitable for retention. However, in general, the shrubby belt is overgrown and beyond redemption.
3781	Sycamore		x		x		Three individual stems and deformed which suggests limited usefulness.
3782	Sycamore		x		x		Three individual stems within hedgerow thicket. All are multi-stemmed and deformed which suggests limited usefulness.

Tree No.	Common Name	To be Transplanted	To be Removed	Removed because of design	Removed because poor	Botanical Interest	Comments
3783	Sycamore		x		x		Three individual stems within hedgerow thick. All are multi-stemmed and deformed which suggests limited usefulness.
3784	Sycamore		x		x		Twin-stemmed from ground level. Limited future value.
3787	Apple		x		x		Exhibiting signs of decline and the onset of senility. Limited future longevity.
3788	Plum		x		x		Suffering from internal decay and ongoing collapse. Remove.
3794	Norway Maple		x		x		Damaged beyond repair by vehicles. Remove.
3795	Poplar spp.		x		x		Each of these trees is showing signs of chronic canker, suggesting limited future potential. Remove.
3796	Poplar spp.		x		x		Each of these trees is showing signs of chronic canker, suggesting limited future potential. Remove.
3797	Poplar spp.		x		x		Each of these trees is showing signs of chronic canker, suggesting limited future potential. Remove.
3823	Sycamore		x		x		Decayed at ground level and collapse is imminent. Remove.
3844	Acer spp.		x		x		Multi-stemmed from ground level giving rise to concern of collapse in mid-life.
3862	Prunus spp.		x		x		Multi-stemmed from close to ground level and collapse is already occurring. Remove.
3882	Sycamore		x		x		Arising directly adjoining wall where structural damage will occur if not removed.
3886	Laburnum		x		x		In state of ongoing collapse. Remove.

APPENDIX K

SCHEDULE OF ACCOMMODATION OF REVISED COMPLIANCE SCHEME

21/01 '02 17:40

TX/RX NO. 1792

P02

58046 Winty hall, darty

Schedule of Rooms

[illegible]

DUBLIN CORPORATION
06 DEC 2001
PLANNING DEPT

STUDENT RESIDENCES AT TRINITY HALL, DARTRY

For

THE UNIVERSITY OF DUBLIN, TRINITY COLLEGE, DUBLIN 2.

ADDENDUM

TO

PLANNING COMPLIANCE SUBMISSION
TO DUBLIN CORPORATION

NOVEMBER 2001

CLARIFICATIONS, MODIFICATIONS AND CORRECTIONS
TO DOCUMENTS DEMONSTRATING COMPLIANCE WITH
AN BORD PLEANALA GRANT OF PERMISSION
AUGUST 4TH 2000

murrayolaire architects

ARCHITECTS • PLANNERS • URBAN DESIGNERS
RUMBALLY COURT, RUMBALLY LANE, DUBLIN 8
TEL: 01-45 37 300 FAX: 01-45 34 062

2

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1.0	COVER LETTER
2.0	INTRODUCTION
3.0	REFERENCE FRAMEWORK
4.0	SUMMARY OF ADDENDUM DOCUMENT
5.0	SCHEDULE OF DOCUMENTS
6.0	DETAILED RESPONSE TO AMBIGUOUS OR UNCLEAR ITEMS IN COMPLIANCE REPORT

APPENDICES

Appendix A: Current An Bord Pleanála Permission

Ms. Evelyn Conroy
Planning Department
DUBLIN CORPORATION
Block 4
Civic Offices
Wood Quay
Dublin 8

22nd November 2001

Re: STUDENT HALLS OF RESIDENCES, TRINITY HALL, DARTRY, DUBLIN 6:
ADDENDUM TO RECTIFY AUGUST 2001 PLANNING COMPLIANCE DOCUMENTS

Dear Ms. Conroy,

This document forms an addendum to a planning compliance submission made to Dublin Corporation on the 22nd of August 2001, on behalf of the Provost, Fellows and Scholars of the University of Dublin, Trinity College.

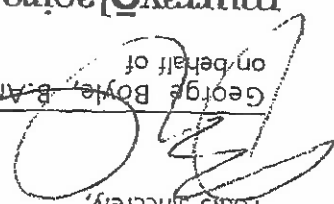
That submission - in accordance with Dublin Corporation correspondence dated 14th of September 1999 requesting revised documents in accordance with Article 35 of the Local Authority (Planning and Development) Regulations 1994 and in compliance with the provisions set out in said correspondence, August 2000 based on the aforementioned documents - was made on behalf of our clients in order to secure the full written agreement of Dublin Corporation that planning compliance was achieved in the attached revised documents with regard to the above application.

Subsequently to this submission, we wish to respond to a number of minor prevailing ambiguities and/or discrepancies highlighted in those documents. This addendum seeks to identify and address specific items of confusion and to fully amend the submission - by clarification, correction, omission or revision - to facilitate an expeditious resolution of written compliance agreements in order for work to commence.

We emphasise that due to significant and incapacitating delays suffered by the project to date, an early response to this document will be vital to its viability. We therefore appreciate the authority's full consideration of our client's unfortunate position.

We trust that this package is sufficiently comprehensive to facilitate resolution of compliance approval. While agreement over minor matters of detail may remain, we anticipate written agreement of the attached package at your convenience to facilitate the commencement of Works. A commencement notice has been granted for the project, and we await approval to start on site.

Yours Sincerely,


George Boyle, B.Arch. MRAl, RIBA
on behalf of

Murray O'Leary architects

APPENDUM REPORT TO

COMPLIANCE DOCUMENTS LODGED ON AUGUST 22nd 2001
IN ACCORDANCE WITH AN BORD PLEANALA PERMISSION AUGUST 4th 2000
STUDENT HALLS OF RESIDENCES AT TRINITY HALL, DARTRY DUBLIN 6

Our Ref.: 98046

2.0 INTRODUCTION

On the 4th August 2000, An Bord Pleanála issued a Grant of Permission for the above proposal to the Provost, Fellows and Scholars of the University of Dublin, Trinity College following an Oral Hearing in May 2000. The decision was appealed to the High Court and a Leave-to-Appeal Hearing took place in December 2000. The leave application was denied. A Leave-to-Appeal application to the Supreme Court regarding the High Court decision was denied in February 2001.

At the Second Schedule of An Bord Pleanála's Permission are 19 detailed conditions. These required varying degrees of modifications to the original documents and/or supplementary information concerning the proposal to achieve compliance, which is (in the case of some conditions) to be granted in writing by Dublin Corporation. These conditions are:

• For written Agreement:
Conditions nos. 7 & 8

• For Agreement:
Conditions nos. 2, 6, 9, 10, 12, 15, 18 & 19

• For general compliance:
Conditions nos. 1, 3, 4, 5, 11, 13, 14, 16 & 17

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 APPENDUM 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.

The documents are based on the revised plans submitted to the planning authority and received on the 7th day of October 1999, in response to a request for revised drawings, plans or particulars under Article 35 of the Local Government (Planning and Development) Regulations 1994, except as otherwise required in order to comply with conditions 2 - 19 of the An Bord Pleanála permission. This addendum report is a supplementary document only and should be read particularly in conjunction with the Compliance Submission Report submitted on 22nd August 2001.

in addition, the original architect's planning report (April 1999), further correspondence submitted as documents constituting the submission under Article 35, including the Architect's Summary Appendix of October 7th 1999, the revised October 1999 EIS, and the revised landscape and engineering consultants' reports are important live documents which should be read in conjunction with this document.

It has been established that public notices need not attend the submission of compliance documents and therefore this addendum submission is not on formal notice to the public.

4.0 REFERENCE FRAMEWORK

This addendum report responds specifically to observations made by the planning authority in pertinent to the Compliance package submitted on the 22nd August 2001.

The guiding principles governing this response and, indeed, the developed status of the project, are established and augmented in the following statutory documents. These documents emanate from eminent authorities and provide a framework for interpretation and comprehension of the permission granted for the proposal and its potential for Development. The reference framework is as follows:

- Drawings, documents and reports submitted for planning permission in April 1999 only as remain relevant to the modified proposal submitted on 13.04.99
- Dublin Corporation Request for revised documents under article 35 of the Local Government (Planning and Development) Regulations 1994, issued 14.09.99
- Drawings, documents, reports and particulars submitted in response to the request for revised documents under article 35, submitted on 07.10.99
- An Bord Pleanála Inspector's Details, Observations, Consideration, Report on Oral Hearing, Assessment and Recommendation document, issued on 26.06.00
- An Bord Pleanála Grant of Permission with 19 Conditions, issued 04.08.00
- JUDGMENT of Mr. Justice McKechnie on leave-to-appeal application to the High Court, delivered on 15.12.00
- JUDGMENT of Mr. Justice McKechnie on leave-to-appeal application to the Supreme Court, delivered on 02.03.01
- ORDER of the High Court on refusal of leave-to-appeal applications 17.10.01

These documents have all profound influence on the readership and interpretation of the prevailing permission of An Bord Pleanála, issued in August 2000.

Implicit to the above governing principal documents, the framing of the Compliance submission documents as modified by this report are influenced by implicit architectural imperatives relative to the overall authenticity, consistency and quality of the scheme proposed.

We, the architects, are satisfied that no action has been implemented relative to the scheme proposed that compromises the or in any sense deviates from the spirit of the planning permission or from the intentions of the Development plan, or from the overall architectural integrity of the proposal. We anticipate that written planning compliance approval in relation to Conditions nos. 7 and 8 shall be directly forthcoming.

4.0 SUMMARY OF MODIFIED PROPOSAL SUBMITTED FOR COMPLIANCE, LODGEMENT 29.08.01

The Proposal in Summary

The Provost, Fellows and Scholars of Trinity College seek full written agreement regarding the compliance of the relevant documents with An Bord Pleanála's Grant of Permission and associated conditions with regard to:

The construction of new student halls of residences at Trinity Hall Darty, Dublin 6 for continued institutional use, or as described in Class Definition "Buildings for the Health, Safety or Welfare of the Public (b)" in the Dublin City Development Plan 1999. The site is approximately 4.27 hectares located on Darty Road between Palmerston Park and Temple Road.

The development comprises approximately 25,000 sq. m. distributed over 3 buildings and includes the refurbishment and renovation of Trinity Hall, which is a listed (List 2) building.

It involves the removal of a small single-storey gate lodge to facilitate the relocation of the site entrance, removal of a 3-storey 20th century intervention link block between two listed buildings (Trinity Hall and Purser House), and removal of an existing 2-storey glazed lobby to the Sports Hall. The modified proposal also proposes the removal of a 3-storey annexe to Trinity Hall.

The complex of new buildings provides approximately 940 new bedspaces in 812 new bedrooms. These units will be arranged in a combination of twin, single, and staff rooms (with provision for an appropriate ratio of wheelchair accessible rooms in each category). The rooms are distributed in 177 new apartments, each sharing common living, dining and kitchen areas. The buildings range from three to seven storeys.

The predominant parapet height around the site is four storeys, with a recessed upper storey over certain locations. The apartments are grouped into houses, which are each supported by independent power, data, and electrical plant supply. Plant is provided primarily in the roof space where possible.

The proposal includes for the removal, at the Darty Road frontage, of a storey off the western arm of Building 3 in accordance with Condition no. 2 of An Bord Pleanála's permission.

Houses are gathered to form open-ended courtyards or landscaped parks to create informal, natural and intimate spaces that will enhance the quality of suburban institutional living in such a unique setting.

Support facilities necessary to the basic maintenance and operation of the institution will also be provided as part of this proposal. Dedicated facilities will include a laundrette, linen stores, workshops, reception areas, associated stores, offices, ATM and a student shop. These are centrally located and will operate specifically to serve the on-site community.

The new building will provide new dining facilities to allow students a common area capable of seating 400 diners with associated new kitchens and new atrium to rear. This atrium will be subject to a separate planning approval application under Condition no. 14 of An Bord Pleanála's permission. The proposal includes for improvement of the existing sports centre, allowing it to function as an independent facility with appropriate support amenities.

Associated new ancillary works are proposed including a new avenue and enclosed arboretum aligned with Sunbury Gardens; new perimeter treatment to the site boundary in accordance with Condition no. 6 of An Bord Pleanála's permission, a new square designed for vehicular and pedestrian use; hard and soft landscaped courtyards; new practical and decorative water features; and other landscaping and services installations intrinsic to the development. The revised plans also indicate an additional vehicular access to the site from a cul-de-sac road off Temple Road.

The revised application involves the retention of existing trees at the Western arboretum and Site perimeter and is accompanied by a comprehensive management plan for the treatment of existing and proposed trees.

The compliance submission consists of rectified drawings and reports correlated to those submitted on the 7th October, in addition to specific documents and reports carried over from the original April application and consideration period. The Compliance submission document is supplemented by detailed assessment reports on tree protection, archaeology, entrances, boundary wall treatment, the South Gate lodge and other miscellaneous supplementary information required to comply with the permission.

The original numbering system from October 1999 has been retained, with Revision Code /PPP1 attached.

This ADDENDUM document necessitates the substitution of some documents with amended and corrected documents. In this case, they will bear revision code /PPP2 for the purposes of clarity.

The drawing list attached below indicates which items are carried forward unaffected from the original Section 35 package of October 1999, which items have undergone minor modifications and which items are supplementary to the package, and which items are revised in this Addendum since the August Compliance Submission.

Reasons for modifications or supplementary information are specifically explained on the drawings and in the architectural report accompanying the compliance documents.

Drawings and documents valid for this assessment are listed below.

An independent Environmental Impact Statement accompanies the modified proposal.



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The proposal is designed so that each floor has a changing profile three-dimensionally. This is consistent on the aspect to Darty Road. The first floor steps out significantly past the rest of the facade, and in effect supports the upper levels. It would not be possible to remove this floor without severely undermining the architectural composition of the elevation and creating structural problems on that facade. It was suggested that an "intermediate floor" may have been intended.

Clarification (a):

The condition was interpreted to mean that the overall height of the building is to be reduced by one storey at the Darty Road elevation of Building 3. The specific reference to the first floor caused some difficulty. In addition, the reference to the "western arm" was ambiguous in interpretation. There was no precedent, justification, or assistance for the interpretation of this Condition in the Inspector's Assessment or in the first draft of permission conditions in the Inspector's report.

Context:

- (a) The first floor is not the floor removed in the revised plans submitted with the Compliance documents, contrary to An Bord Pleanála's request.
- (b) The North Wing of the West Elevation remains at five (5) storeys, although the remaining western arm is reduced in height by one storey.

Description :

The planning authority observed the following based on the compliance documents:

Reason:

"The western arm of Building Number 3, that is on the full Darty Road Elevation, shall be reduced in height by the omission of the first floor. Revised drawings incorporating this modification to building number 3 shall be submitted to the planning authority for agreement prior to the commencement of development.

Condition No. 2 (building 3 design amendment)

An Bord Pleanála Condition no. 2 states:

ITEM 1.0 REDUCTION IN THE WESTERN ARM OF BUILDING NO. 3

A detailed analysis follows of a number of specific inconsistencies highlighted by the planning authority in a meeting called for that purpose - subsequent to the receipt of Compliance Documents - as potential sources of prevailing ambiguity or discrepancy.

This report describes each issue, its relevant context, and addresses the matter with an agreed solution or response by clarification, correction, removal or revision. The accompanying package of documents with this addendum will supplement and where appropriate, supersede, the Compliance Documents lodged on 22 August 2001.

APPENDUM REPORT: STUDENT HALLS OF RESIDENCE AT TRINITY HALL DARTRY ISSUES ARISING: DETAILED DESCRIPTION / ASSESSMENT / PROPOSED ACTION
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Following the Board's decision in August 2000, options were prepared for discussion with the planning authority dealing with the intentions of this condition. These options reduced the overall height of building 3 on this wing by one storey, but did not propose incurring problems associated with the removal of the first floor.

The setback balcony at the upper level was suggested to be essential to the spirit of the condition. This is achieved in the selected option, and is incorporated into the compliance drawings.

Clarification (b):

It was proposed that the condition could be interpreted to allow the bookend elements to remain at their original storey height. This was especially considered desirable at the site entrance.

Accordingly, it was agreed that the North bookend would remain at original height (5 storeys) with the South end reduced by one storey to match the continuing western arm. This was deemed an appropriate urban design and architectural response, balancing the six-storey corner element of building no. 2 at the opposite side of the Entrance Avenue.

Solution/Response:

Options for the modification to Building 3 were submitted to the planning authority in August 2000 for review and were the subject of detailed discussion. The Planning Authority agreed that the selected option as illustrated in the compliance documents is an appropriate reflection of the intention of the Condition while maintaining the spirit of the proposal.

This matter does not require a written agreement except in the context of the overall meaning of Condition no. 8.

ITEM 2.0 ROOF PITCHES

In reference to elevations submitted with the October 1999 submission, it was noted that these elevations indicated very low roof pitches. The current scheme as illustrated in the compliance drawings indicates steeper roof pitches.

Description:

An increase in roof pitch was historically required by the planning authority, but it was not clear whether this was a specific requirement under condition no. 4 of the Dublin Corporation permission in November 1999.

Interventions undertaken to comply with the Corporation's condition no. 4 are completely superseded by the grant and conditions of An Bord Pleanála's permission.

Context:

April 1999

In the April 1999 architect's report at Section 3.4.2 (Roofs), the original shallow pitched roof was described:

"the preferred roof design was an extremely low-pitch (~8°) hipped on prefabricated trussed rafter construction with 600mm overhanging eaves incorporating gutters"

September 1999

The planning authority, in their request for submission of revised plans in accordance with Article 35 of the Local Government (Planning and Development) Regulations 1994, requested at clause no. 9, provision for the following:

"... Stronger roof profiles with pitched surfaces clearly evident from street levels and surroundings."

October 1999

This intervention was implemented in accordance with the Section 35 request. This is borne out in the section drawings submitted with the October 1999 submission, and in the following extract from the accompanying architect's summary appendix, Section 6.8 p. 17

"Roof lines are further emphasised utilising stronger coping lines at parapet features, steeper pitched roofs to set-back floors, and stronger eaves details"

Clarification:

The roof interventions were executed and fully implemented on the revised Section drawings of the October 1999 submission, but these revised details were not transferred onto the Elevation drawings at the time. This arose due to a drafting oversight.

The roofs as indicated on the overlooked elevations would in reality result in unsightly flashing details evident from street level, stepped ridges, misaligned eaves and awkward junctions at corners. These roofs could not accommodate the tidy containment of plant and attic within the roofspace as indicated in the section drawings and in the architects' reports.

The low-pitch roof line as indicated on the unresolved elevations would inevitably limit the potential for using natural roofing materials specifically required in provision 9 of the Section 35 requirement.

The section drawings in the October 1999 submission were correct as revised to take account of the requirements of the Section 35 process. In these corrected drawings, the pitch of the roof is 22.5°.

In the intervening period, the advice of specialist roofing contractors has been procured and the roofs on the compliance documents reflect their expert advice. The prevailing pitch of roofs in the compliance package is 22°. In set-back areas, the pitch is 27°; this permits the eaves and ridge heights to be consistent across the building elevations. The steeper pitch was agreed to be preferable to a higher eaves line at Darry Road.

In summary, the compliance drawings reflect accurate resolution of discrepancies between the original October 1999 sections and elevations. This correction is carried out as required in accordance with Condition no. 8 of An Bord Pleanála's grant of permission.

Solution/Response:

In the context of the above clarification, we trust that this discrepancy is adequately addressed.

This matter does not require a written agreement except in the context of the overall meaning of Condition no. 8.

ITEM 3.0 FINISHES GENERALLY

An Bord Pleanála's Condition no. 7 states:

Condition No. 7

Details of all external finishes including pavement treatments and materials to be used on the external elevations of the building shall be submitted for the written agreement of the planning authority prior to the commencement of development

Reason: In the interest of visual amenity"

Description:

The compliance documents provide detailed specifications for all external finishes including pavement treatments and materials to be used on the external elevations of the building.

While these may be acceptable for compliance approval purposes, it was highlighted by the planning authority that further agreements might be necessary on the precise nature of certain materials. This may be manifest for example in providing to the planning authority, when requested, sufficient evidence of the satisfactory visual performance of certain materials.

Context:

In the interests of facilitating the planning authority's decision in relation to this condition, the applicant undertook on request to erect at his own expense a "mock-up" illustrating at 1:1 scale the palette of proposed external finishes in typical representative configurations.

This mock-up is complete and has been inspected by the planning authority.

Clarification:

It is agreed that the detailed specifications as set out in the compliance documents are in accordance with the planning authority's expectations. Further discourse of particulars in the regular sense of such a condition may be required over the course of the project.

Solution/Response:

The detailed specification in the compliance submission report is sufficient for written agreements of the compliance documents. It may arise that this will be subject to further agreement of refined detail.

This matter requires a written agreement from the planning authority.

ITEM 4.0 ESB SUBSTATION

Description:

The ESB Substation servicing the site has been relocated, and has increased in size. The planning authority recommend that an approval application for "amendments or alterations to an existing permission" would be appropriate to fully describe this minor modification.

Context:

October 1999

The ESB Substation, located at the unnamed cul-de-sac opposite the Brazilian Embassy, was to be an LV substation in accordance with advice proposed by the ESB and design consultants at the time of submission. This substation measured approximately 3.5 x 5.5 metres.

August 2001

The Substation has been resized by the ESB due to their estimates of capacity loading. The new minimum size substation, to be an MV installation, now measures approximately 5 x 5.5 metres.

Clarification:

Considering the revised size and requisite construction specification for such installations, it was considered that locating the substation on the site perimeter was no longer appropriate or feasible.

The revised location of the ESB substation within the site is considered an improvement in planning terms, having minimal impact on the surrounding area. In addition, it proves simpler and less onerous for the trenching of services, having reduced impact on tree roots, etc.

The applicant has the choice to revise the ESB substation to its previous size and location, or to apply for approval for the new size and location. The planning authority regard the revised location as a significant benefit.

The planning authority recommends a separate approval application in the interests of transparency, having regard to the controversial nature of the Development and site.

Solution/Response:

For the purposes of advancing written compliance agreement, the applicant undertakes in this addendum to make a revised application for the new location of the ESB substation, and the attached drawings are marked up with the following note:

"New location for ESB Substation subject to separate planning approval"

Should the applicant wish to revise his position on this, whether to revert to the original substation or otherwise, he will notify the planning authority at once. We trust therefore that this item will not affect compliance approval.

ITEM 5.0 RECYCLING SUITE

Description:

In the place of the previous ESB substation, a recycling suite was indicated on the compliance drawings. It was highlighted by the planning authority that the planning implications of such an item would be considerable and that it would certainly require a separate planning application.

Context:

This item resulted from a recycling model for the site. The location is acknowledged as unsuitable.

Solution/Response:

The recycling suite has been removed from this location and the documents accompanying this addendum illustrate this amendment to the compliance documents.

ITEM 6.0 MINOR ALTERATIONS GENERALLY

An Bord Pleanála's Condition no. 8 states:

Condition No. 8

"Revised drawings of the proposed development with floor plans and elevations corresponding in detail shall be submitted to and agreed in writing by the planning authority prior to the commencement of development."

Reason: In the interest of orderly development"

Description:

Throughout the compliance documents, a number of minor amendments and alterations have been implemented and observed throughout the scheme, resulting in discrepancies between the original (October 1999) and compliance (August 2001) documents.

The planning authority observed these discrepancies to include, but not exhaustively (explanations for each intervention in *italics*):

Building 1:

- minor elevational changes on north and south spine to correlate plans and elevations
- slot window in lieu of punctured windows on main elevation to satisfy fire requirement for automatic opening vent to corridor
- correction of roof profiles to correspond to sections (see item 2.0 above)
- minor alterations to footprint of plant room to rear to provide sufficient access to rear yard
- minor alterations of plans to indicate steps in façade
- minor alterations of plans to include little windows
- minor adjustment of levels to reflect accurate site investigation levels and conditions, to reflect transfer structure requirements and to permit proper brick coursing

Building 2:

- minor elevational changes to North end of West elevation to correlate floor plan and elevation
- minor elevational changes to courtyard elevations to omit surplus provision of plant rooms
- minor elevational changes to twin rooms at South elevation to make consistent throughout
- minor elevational changes to external elevation fenestration to co-ordinate with plans
- removal of balcony at East elevation to make consistent with Building 3 East elevation
- correction of roof profiles to correspond to sections (see item 2.0 above)
- minor alterations of plans to indicate steps in façade
- minor alterations of plans to include little windows
- minor adjustment of levels to permit proper brick coursing
- minor amendments to courtyard and running dimensions to allow for 1800mm turning circles in corridors to comply with universal access principles

Building 3:

- reduction in storey height on west elevation to comply with condition no. 2
- 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
- correction of roof profiles to correspond to sections (see item 2.0 above)
- alterations of plans to indicate steps in façade
- alterations of plans to include little windows
- minor adjustment of levels to permit proper brick coursing
- minor amendments to courtyard and running dimensions to allow for 1800mm turning circles in corridors to comply with universal access principles

Context:

In the compliance submission documents, the section on Condition 8 deals with discrepancies under the following headings:

- (i) An Bord Pleanála is entitled to grant a planning permission subject to conditions, which may include a requirement, that matters should be agreed between the planning authority and the recipient of the permission.
- (ii) Whether such a requirement is *intra vires* is a matter of degree and depends on the nature of the matter left for resolution, the resolving of which must have regard to the nature and circumstances of each particular application and development
- (iii) In deciding whether or not to regulate an aspect of a proposed development in this way the board is entitled to
- (a) afford a developer, subject to the consent of the planning authority, a degree of flexibility, particularly if the intended scheme involves complex enterprise
- (b) to leave technical matters or matters of detail including a redesign in the light of practical experience, to such a device, and
- (c) to have faith and confidence in the planning authority's role given its statutory function and responsibility."

Relevant Extract from High Court Judgement

and

"The scheme has been designed by a firm of competent architects. I consider that it is generally acceptable as proposed from a design point of view. (I note however that there are some discrepancies in the drawings e.g. the floor layout and the elevational drawings of block no. 2 do not correspond in detail at the northern end of the west facing elevation. There also appears to be discrepancies in window sizes and small openings indicated on elevations are not shown on the layout plans. I consider that the discrepancies are not significant in a fundamental sense. Details however should be agreed with the planning authority)"

Relevant Extract from An Bord Pleanála Inspector's Assessment

The following extracts from the hearings of An Bord Pleanála and the High Court are quoted at the Condition no. 8 section of the Compliance document, but for the purposes of clarification are repeated here:

Clarification:

Many of the planning authority's above observations were itemised under these headings but more expansive explanations were requested, which are summarised in the italic comments above.

These include the expansion of the package to represent all information, as the use of "typical" representations was considered to be misleading and confusing ..."

C. Alterations for Clarification Purposes

These include revisions to or supplementary information added to the original October 1999 package which address specifically the discrepancies highlighted by the Inspector, and other inconsistencies

B. Alterations to correct discrepancies between documents

A. Alterations to comply with Conditions

Solution / Response

Following a detailed review of each item, the noted discrepancies are considered and agreed to be

- (c) to comply with the conditions of An Bord Pleanála's grant of permission generally
 - (d) to comply with Condition no. 8 of An Bord Pleanála's grant of permission, i.e. addressing and correcting discrepancies arising in the drawings and documentation
 - (e) to be technical matters or matters of detail agreed with the planning authority in its statutory function and responsibility to be within the spirit of An Bord Pleanála's grant of permission
 - (f) to be minor alterations of inconsequential nature resulting from refinement of architectural consistency of the scheme in the interests of proper planning
 - (g) to be minor alterations of inconsequential nature resulting from detailed requirements to comply with the Building Regulations
- The above items were discussed in detail with the planning authority in November 2001. The Planning Authority agreed that the discrepancies should be clearly outlined and explained in this addendum documents in the interests of transparency. This matter requires written agreement from the planning authority in the context of Condition no. 8.

ITEM 7.0 INCREASE IN BEDSPACE NUMBERS: BUILDING NO. 2

Description:

The planning authority noted that building no. 2 was originally scheduled in the October 1999 submission to contain 300 bedspaces.

The compliance documents of August 2001 indicate a total of 324 bedspaces.

Context:

October 1999

The public notice for the October 1999 proposal stated the Development to incorporate:

"3 no student residence buildings to contain 832 no bedrooms arranged in 180 no apartments over 3 to 7 storeys"

This was broken down in Appendix 2 of the architects' Summary Appendix "Schedule Of Areas and Accommodations". Building 2 at this schedule yielded a total of 300 bedspaces in 60 apartments.

August 2001

The compliance documents included at Appendix K "Schedule of Accommodation of Revised Compliance Scheme" a total of 324 bedspaces for building no. 2, in 62 apartments.

It is noted, however, that the removal of a storey from building no. 3 resulted in a total of 346 bedspaces, in lieu of the October total of 377.

Extracts from the Inspector's report

In his detailed assessment of July 2000, An Bord Pleanála's Inspector states:

"Having regard to the Guidelines on Residential Development issued by the Department of the Environment I consider that it is desirable that the lands should be re-developed at a relatively high density"

and

"... I consider that the proposed Development would not be of excessive density in terms of site coverage or plot ratio"

and

"Having regard to the nature of the use I consider that the density is acceptable and I do not consider that it is necessary to impose a condition in relation to the remainder of the lands. In the event of further applications being made such applications can be considered on their merits"

Clarification:

Explanations for the discrepancy in accommodation totals for building 2 are as follows:

Discrepancies in October 1999 totals

Building 2, in the October 1999 submission, was summarised incorrectly in the accompanying schedule, due to a miscount of bedspaces. The correct breakdown of accommodation as calculated from the submitted drawings should have been as follows:

6 floor:	59 bedspaces
1 floor:	63 bedspaces
2 floor:	63 bedspaces
3 floor:	63 bedspaces
4 floor:	56 bedspaces
5 floor:	4 bedspaces
Total:	308 bedspaces

Discrepancies in October 1999 East Elevation of Building 2

A balcony indicated at the upper floor East elevation of building no. 2 was erroneously included in the documents of October 1999. This balcony provision was specifically to be provided at the Darty Road elevation only. This is illustrated in the corresponding east elevation of building no. 3, which does not indicate a balcony at this floor level.

The 3D computer generated representation of Building no. 2 "proposed view no 7" included in the revised EIS report of October 1999 indicates the correct representation of this elevation, clearly without the setback balcony at upper floor. Correcting this discrepancy results in 2 extra bedspaces at this (4th) floor. This yields a total of 310 bedspaces for the building.

Unnecessary plant rooms at North of Building 2

Plant rooms indicated at the North of the plan are now unnecessary due to refinement of the decentralised servicing model proposed. These rooms yield an additional 4 bedspaces for the October 1999 scheme: a total of 314 bedspaces for this building.

• August 2001 totals for building 2

The current proposal summary in the compliance documents (August 2001) is as follows:

Ground floor:	62 bedspaces (+ 2)
1 floor:	66 bedspaces (+ 2)
2 floor:	66 bedspaces (+ 2)
3 floor:	66 bedspaces (+ 2)
4 floor:	60 bedspaces (+ 2)
5 floor:	4 bedspaces
Total:	324 bedspaces

• Twin Room "Clusters"

Subsequent to the planning application, the College noted that the accommodation model preferred for twin accommodation was to group twin rooms into same apartments, as these rooms tended to be occupied by first year students.

With minor adjustments of the plan (see item 6.0 above) to accommodate required wheelchair turning circles at corridors, the East end of Building 2 permitted the conversion of 2 disabled rooms at North and South to 2 twin rooms, by omitting the wheelchair accessible shower pod.

This allowed a satisfactory resolution of the "clustering" issue without disturbing the overall footprint of the building. The total accommodation gain resulting from this intervention was an extra 2 bedspaces per floor over 5 floors (see above).

• COMPARISON

This increase in bedspace numbers as submitted in the compliance drawings of August 2001 in Building no. 2 compared with the original correct October 1999 total of 308 bedspaces is therefore fully accounted for as follows:

- 2 twin rooms in lieu of previously 2 disabled rooms on 5 floors (2x5): 10 bedspaces
- 1 single room in lieu of 1 plant room at North of West wing on 4 floors: 4 bedspaces
- 2 single rooms from removed balcony at upper storey on east wing: 2 bedspaces

Total Gain:

324 (current total) - 308 (corrected previous total):

16 bedspaces
16 bedspaces

Of these 16 extra bedspaces, 6 arise from correctional actions rectifying design discrepancies. 10 bedspaces arise from assigning an extra bedspace to an oversized room to achieve a required bedroom mix.

• SUMMARY

a) The accommodation increase in Building 2 results from sensible reclamation of space potential generated by minor interventions. These interventions are implemented to satisfy the design process, to benefit from simplified servicing models, and to comply with certain technical requirements.

b) The increased accommodation involves assigning bedspaces to areas that would otherwise be vacant or considerably under-assigned in terms of floor area requirement guidelines as outlined at paragraph 6.2 of the Section 50 Finance Act 1999.

c) The accommodation gain does not affect the building appearance, language, elevational treatment or footprint in any significant way. This gain is not implemented for its own sake and is disclosed in the Compliance documents in the interests of transparency.

d) This Development is rendered viable on the basis of a detailed financial model, which is calculated on revenue generated by rental figures per bedspace. The original April 1999 proposal provided a total of 1004 bedspaces, which figure was reduced by 59 bedspaces as a result of the Section 35 process. Further significant reductions in these figures would inevitably jeopardise the viability of the proposal.

e) Compliance with Condition no. 2 of An Bord Pleanála's permission at Building no. 3 would result in an overall reduction of 31 bedspaces throughout the scheme. However, it is noted from the reception of the proposal at all statutory levels throughout the appeals process that relevant authorities had no objection to the overall density proposed on the site.

f) The scheme project total in all public notices refers to the overall total for the combined Development, and not to individual buildings. These totals are not exceeded by the revised Development as submitted with the Compliance documents:

Scheme Totals

Apartment totals	180	177
Bedspace totals	945	940
Bedroom totals	832	812

October 1999

August 2001

Solution/Response:

The accommodation gain in Building 2 is therefore deemed to have no impact in terms of the density of the Development, or the composition of the proposal as described in the Development description. It is not considered to contravene either the Development Plan or the spirit of the permission.

This matter requires written agreement from the planning authority in the context of Condition no. 8.

ITEM 8.0 TREES

Description:

Two trees were noticed to be included in the Compliance documents as "existing trees to be removed due to poor health" which were not described as such in the original 1999 documents. These are trees nos. 3770 and 3771.

Context:

In the tree surgeons' report accompanying the documents, the two trees in question are described as follows:

Tree no.	Species	Age	Condition	Treatment Required	Category
3770	Sycamore	Ht 8m	Spr. 4m	A tall, drawn up whip within part of hedgerow	B
3771	Holly	Mature	Fair	Part of general holly thicket. No action required at this time	B

Clarification:

These trees numbers appeared on the tree removal plan in October 1999, although they were not indicated for removal. This gave rise to some confusion regarding their status.

These trees numbers were indicated for removal on the August 2001 Compliance tree removal plan. This was a genuine error and the trees were not intended to be drawn for removal.

Solution/Response:

On the accompanying drawing, the trees 3770 and 3771 have been reinstated. This error is rectified and all appropriate action will be taken to reinstate these trees.

This matter does not require a written agreement except in the context of the overall meaning of Condition no. 8.

ITEM 9.0 DRAINAGE, WATER AND ARCHAEOLOGY

Description:

The planning authority have passed on the relevant information to the Drainage, water and archaeological divisions. These divisions responses are outside the control of the planning department.

Context:

These departments are involved specifically with regard to Compliance with Conditions nos. 10, 11 and 15 of An Bord Pleanála's permission. The specific requirements of the conditions have been complied with and are summarised in the compliance submission report.

Solution/Response:

The matters concerning these departments do not require written agreements except in the context of the overall meaning of Condition no. 8. The documents summarise adequately the actions taken and to be resolved and the architect will follow these matters up with the relevant departments to ensure the relevant parties are satisfied.

ITEM 10.0 ROADS, PATHS AND PAVINGS

Description:

The planning authority noted that a supplementary drawing included in the compliance submission report of the entrance area to the site was not submitted as a large scale drawing at the relevant scale.

Context:

An Bord Pleanála Condition no. 12 states:

Condition No. 12 (entranceways)

"Details of the proposed entrance including details of materials to be used and the demarcation of the vehicular access and egress carriageways at the Darty Road junction shall be submitted to agreed with the planning authority prior to the commencement of Development. The public footpath at the location of the proposed access shall be dishd and strengthened in accordance with the requirements of the planning authority at the Developer's expense.

Reason:

In the interest of vehicular and pedestrian traffic safety and convenience"

The drawing in question was submitted in order to comply with this condition.

Solution/Response:

The drawing is attached to this addendum report.

ITEM 11.0 PLANT IN ROOFSpace

Description:

The planning authority noted that plant rooms previously on floor plans have been removed. The planning authority also sought confirmation that none of the plant rooms would be visible over the roof line of the buildings.

Context:

The Dublin City Development Plan 1999 states:

"Dublin Corporation is concerned at the proliferation of plant and tank rooms on top of the roofs of buildings in the city. For this reason plant and tank rooms are being included in the calculation of the gross floor area of buildings. The Corporation considers that such facilities should be provided within the roof space of buildings unless the applicant can prove justification of the need in exceptional circumstances to locate plant and tank rooms outside the roofs of buildings."

The original architects planning report of April 1999 states:

"Ancillary top-storey areas such as plant rooms, water stores and lift over-runs are designed to be discrete and invisible from any point on the ground. At no point in the Development will these areas break the ridge line of the overall roof"

The location of plant, specifically of boiler rooms, caused much controversy at the Oral and High Court appeal hearings. The result was however to support a decentralised servicing model which was clarified by both An Bord Pleanála's Inspector and the Judge at the High Court.

Relevant Extract from High Court Judgement:

"What is abundantly clear is that as per the Design Architect Ms. Boyle a decentralised system was in fact being sought on behalf of the developer.....Furthermore, everyone present knew of this proposal and indeed made comment on it. Examples of matters in dispute are the precise location of the plant rooms - this being essential it is claimed to determine the emanating noise, the fact that one is shown next to a living area, whether the same are of sufficient size, what should be the height of the plant and its location, etc. Whilst I am satisfied that all of these matters were adequately dealt with at the oral hearing and that many are also suitable to be dealt with by agreement of the local authority, in addition I should say that I would set my face totally against such a microscopic examination by this Court of such matters of details.

Once the statutory requirements have been satisfied I should not concern myself with the qualitative nature of the EIS or the debate had before the Inspector. These are not matters of concern to this court. The planning authority and An Bord Pleanála as they must under the Regulations were satisfied as to the EIS and the Inspector and the Board were satisfied with the evidence, both documentary and oral, produced at the oral hearing. That in my view concludes the matter. However, lest there should be any doubt about it my own opinion is that the EIS did address adequately as did the oral hearing any and all significant impacts which a decentralised boiler system would have on this Development. In addition in my view Condition no. 16 is a complete answer to the issue of noise. As a result I do not believe that the applicant has established a substantial ground in this regard"

Clarification:

Further to the leave application hearing, the progression of the project demonstrated that the plant areas in the roof space would be adequate to house boiler rooms and water storage facilities and that support plant rooms would not be required and the few locations indicated previously on the plans. These scattered supplementary plant rooms are therefore removed from the plans.

As supplementary information to the Compliance documents, the submission includes for plant room layouts showing the under-roof areas at the upper floors. These areas will be as outlined in the planning report extract above: i.e. discrete and not visible from the ground. These plans were not included in the original October 1999 documents. Although it is not regular practice to include roofspace plans, their omission caused considerable confusion and their inclusion was considered appropriate in the interests of clarity

Solution/Response:

Plant is adequately housed therefore at the over-staircase areas under the roof an specifically on the courtyard side of the buildings in order to ensure that their volumes will not be apparent from street level. The plant areas are clad in zinc to match the roof finish and in no case break the ridge line of the

Noise emanating from plant rooms will be controlled by Condition no. 16 and this will be assured by the design team Mechanical engineers. Plant rooms are removed from within the plan and are therefore not in proximity to living areas. The plant rooms are adequately sized and the flue will not be higher than the ridge line. The flue will again be located on the courtyard side away from the street. Drawings illustrating plant room layouts are attached to the Compliance documents. We trust therefore that this item does not affect compliance approval.

ITEM 12.0 VEHICULAR ACCESS AT UNNAMED CUL-DE-SAC

Description:

Condition No. 13 (cul-de-sac at temple Road)

"The gateway at the end of the unnamed cul-de-sac off Temple Road shall be used by vehicular traffic as an egress only unless planning permission for an alternative traffic flow system and access arrangement shall have been granted.

Reason:

To define the nature of the Development being permitted having regard to the details of the development as indicated on the plans submitted to and received by the planning authority on the 7th day of October 1999"

The planning authority noted that this condition clearly limits the use of the cul-de-sac gateway for the Development proper.

Context:

This item has caused considerable confusion. The history of the gateway is as follows:

October 1999: Drawings

Dwg no. 202 of the original submission indicates a gateway at the South end of the site, which is appended with the note:

"alternative egress from Temple Road"

October 1999: Architect's summary appendix Section 6.9

"Traffic and road safety issues raised will be alleviated by the revised design of the central avenue, supported by a supplementary alternative exit point at the South of the site to the more traffic controlled Temple Road."

October 1999: EIS report: Section 12.4.2

"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"

October 1999: EIS report: p 28

"A temporary access road for non-construction traffic will be provided from a short spur off the existing gateway on temple Road. Separating Construction traffic from other traffic ensures greater safety in the vicinity of the site"

4 April 2000 : Newspaper notice.

Upon receipt of the documents, An Bord Pleanála requested the developer to take out a new revised notice in the newspapers and on the site for the scheme. This was to include, for clarity, the statement:

"the revised plans also indicate an additional vehicular access to the site from a cul-de-sac road off Temple road"

(the wording is An Bord Pleanála's).

Clarification:

The wording of the Condition is perplexing in the context that it limits the gateway to egress only, despite An Bord Pleanála specifically requesting the applicant to take out notices at considerable expense to include the wording "the revised plans also indicate an additional vehicular access to the site from a cul-de-sac road off Temple road" in the interests of clarity.

Although there is a very clear meaning in the Condition for the purposes of the use of this gate when the Development is complete, the main confusion revolves around the use of this entrance during the Construction period. The debate had at the oral hearing centred exclusively around the use of this gateway once the Development is complete.

The architect would like to note that the Developer has no issue with the use of this gate as an egress only both at Construction and Developed stages of the project.

The only contention concerning this point is the reasonable and adequate protection of trees within the site. The service the construction of Building no. 3 from the Darty Road entrance puts trees nos. 974, 975 3759, 3766 and, most importantly, tree 998 under considerable stress and pressure from heavy machinery traversing their root structure constantly. This would be significantly alleviated if the condition could be interpreted to permit, as described above, the cul-de-sac to operate as an entrance and exit for the duration of the works.

In the interests of the trees, the reasonable considered opinion of the planning enforcement department was to permit this gateway to operate as a temporary site entrance for the duration of the erection of the mock-up installation, a temporary building associated with compliance approval.

Solution/Response:

This issue was discussed at length with the planning authority in November 2001. Although the reading for the completed Development is clear, the planning authority were sympathetic to the case made for the potential disruption of trees during the Construction period.

The planning authority however advised that this issue was a matter for planning enforcement who would consider all relevant factors in their assessment and interpretation of the permission. This item does not affect compliance approval.

ITEM 13.0 VEHICULAR ACCESS AT CUNNINGHAM HOUSE

Description:

The planning authority, accepting the temporary use of the Cunningham House entrance for the purposes of the erection of the mock up, notified the architect that sustaining this as a vehicular access would require a separate planning application.

Context:

An existing gateway at this location has been reopened. This was proposed under the following classes of exemption of the second schedule of the Local Government (Planning and Development) regulations 1994.

"Class 8

the construction, erection renewal or replacement other than within or bounding the curtilage of a dwelling house of any gate or gateway.

"Class 15

the erection, construction or placing on land on, in or under which or on land adjoining which development consisting of works (other than mining) is being or is about to be carried out in pursuance of a permission granted under Part IV of the Act of 1963 or as exempted Development, of structures, works plant or machinery needed temporarily with that Development during the period in which it is being carried out."

Clarification:

The planning authority advised that these classes may not be appropriate for application to the gate in question, the first being exemption for a gateway, and not for a vehicular access. There are many considerations to be made, but this not being a compliance issue, the applicant's case is for consideration by the planning enforcement department.

Response:

The applicant accepts that this gateway may not be permitted and it will if necessary be resealed following the completion of the mock up. Alternative access to the live site will be reconsidered for the duration of the works.

We trust therefore that this item will not in any way affect compliance approval from Dublin Corporation.

ITEM 14.0 BOUNDARY WALL

Description:

The Boundary Wall drawing submitted with the compliance documents was mistakenly a drawing identical to that submitted with the October 1999 submission, indicating boundary railing intervention to the entire site perimeter.

Context:

An Bord Pleanála Condition no. 6 states:

Condition No. 6 (Boundary treatment)

"the existing roadside boundary walls and railings shall be retained except where removal is required to provide openings for the access and egress indicated on the plans submitted. The sides to the splayed area at the Darty Road entrance shall be fitted with a low plinth wall and railings in accordance with details which shall be submitted to and agreed with the planning authority prior to the commencement of Development.

Reason:

In the interest of visual and residential amenity"

Solution/Response:

The planning authority were presented at their meeting with the architects with the correct drawing showing the extent of intervention proposed for the boundary treatment. This was agreed and the relevant drawing is attached to this addendum report. This matter does not require a written agreement except in the context of the overall meaning of Condition no. 8.

MURRAY O'LAOIRE architects

DRAWING LIST - PLANNING COMPLIANCE SUBMISSION TO DUBLIN CORPORATION

Drawing

Issue

Project	Series	Sheet No.	Date
Student Residences at Trinity Hall, Darryl	209 Series - Compliance Addendum Report	01 OF 02	22.08.01

Issued by: George Boyle
 Please contact us if any part of the message is not received or received in error. The sender may be contacted by email at: mail@dublin.murrayolaoire.com
 original document identical to October 1998 submission
 original document modified to comply with August 2000 permission
 compliance document added to comply with August 2000 permission
 original document superseded by current submission
 Dwg. No. 01
 Scale M
 Size 01
 Comments 22
 Tel: +353 453 7300
 Fax: +353 453 4062
 Dublin 8
 Fumbally Lane,
 Fumbally Court.

SITE INFORMATION DRAWINGS

Dwg. No.	Scale	Size	Comments
01030/200	1:1000	A1	AS PREVIOUS SUBMISSION
01030/201	1:500	A1	EXISTING SITE PLAN
01030/201A	1:500	A1	NEW DRAWING ADDED FOR CLARITY (CDN 8)
01030/201B	1:500	A1	NEW DRAWING ADDED FOR CLARITY (CDN 8)
01030/201C	1:500	A1	NEW DRAWING ADDED FOR CLARITY (CDN 8)
01030/202	1:500	A1	SITE LAYOUT MASTERPLAN
01030/202A	1:500	A1	NEW DRAWING ADDED FOR CLARITY (CDN 8)
01030/202B	1:500	A1	NEW DRAWING ADDED FOR CLARITY (CDN 8)
01030/203	1:250	A0	LONG SECTIONS AAA-AA-BB-CC
01030/204	1:250	A0	LONG SECTIONS CDD-DEE-EFF
01030/205	1:250	A0	CROSS SECTIONS FFF-NNN
01030/206	1:250	A0	CROSS SECTIONS GGG-HHH
01030/207	1:250	A0	CROSS SECTIONS JJJ-KKK
01030/208	1:250	A0	CROSS SECTIONS LLL-MMM
01030/209	1:250	A0	SITE LAYOUT - GROUND PLAN
01030/211	1:250	A0	SITE LAYOUT - FIRST FLOOR PLAN
01030/212	1:250	A0	SITE LAYOUT - UPPER LEVEL PLAN

01030/213A	1:100	A0	BUILDING 1 GROUND FLOOR PLAN
01030/213B	1:100	A0	BUILDING 1 FIRST FLOOR PLAN
01030/213C	1:100	A0	BUILDING 1 SECOND FLOOR PLAN
01030/213D	1:100	A0	BUILDING 1 THIRD FLOOR PLAN
01030/213E	1:100	A0	BUILDING 1 FOURTH FLOOR PLAN
01030/213F	1:100	A0	BUILDING 1 SIXTH FLOOR / ROOF SPACE PLAN
01030/213G	1:100	A0	BUILDING 1 ROOF PLAN
01030/214	1:100	A0	BUILDING 2 TYPICAL FLOOR PLAN
01030/214A	1:250	A0	BUILDING 2 GROUND FLOOR PLAN
01030/214B	1:250	A0	BUILDING 2 UPPER FLOOR PLAN
01030/214C	1:250	A0	BUILDING 2 ROOF PLAN
01030/215	1:100	A0	BUILDING 3 TYPICAL FLOOR PLAN
01030/215A	1:250	A0	BUILDING 3 GROUND FLOOR PLAN
01030/215B	1:250	A0	BUILDING 3 UPPER FLOOR PLAN
01030/215C	1:250	A0	BUILDING 3 ROOF PLAN
01030/215D	1:250	A0	BUILDING 3 FLOOR PLANS ALL LEVELS
01030/215E	1:250	A0	BUILDING 3 ROOF PLAN
01030/215F	1:250	A0	BUILDING 3 FLOOR PLANS ALL LEVELS
01030/215G	1:250	A0	BUILDING 3 ROOF PLAN
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01030/215X	1:250	A0	BUILDING 3 FLOOR PLANS ALL LEVELS
01030/215Y	1:250	A0	BUILDING 3 ROOF PLAN
01030/215Z	1:250	A0	BUILDING 3 FLOOR PLANS ALL LEVELS
01030/216	1:100	A0	BUILDING 4 ZONE A
01030/216A	1:100	A0	ELEVATIONS N/S E/W
01030/216B	1:100	A0	COURT AND SECTIONAL ELEVATIONS N/S E/W
01030/216C	1:100	A0	BUILDING 4 ZONE B
01030/216D	1:100	A0	COURT AND SECTIONAL ELEVATIONS N/S E/W
01030/216E	1:100	A0	BUILDING 4 ZONE C
01030/216F	1:100	A0	COURT AND SECTIONAL ELEVATIONS N/S E/W
01030/216G	1:100	A0	BUILDING 4 ZONE D
01030/216H	1:100	A0	ELEVATIONS E/W
01030/216I	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
01030/216J	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
01030/216K	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
01030/216L	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
01030/216M	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
01030/216N	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
01030/216O	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
01030/216P	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
01030/216Q	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
01030/216R	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
01030/216S	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
01030/216T	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
01030/216U	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
01030/216V	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
01030/216W	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
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01030/216Z	1:100	A0	SECTIONAL ELEVATIONS E/W & N/S
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Issued to	DUBLIN CORPORATION	4
Architect	MURRAY O'LAOIRE ARCHITECTS	1
Client	TRINITY COLLEGE DUBLIN	1

Issued: ☐ For Comments ☐ As Progress ☐ On Diskette ☐ By email

DRAWING LIST - PLANNING COMPLIANCE SUBMISSION TO DUBLIN CORPORATION

Drawing

Issue

Project	Series	Sheet No.	Date
Student Residences at Trinity Hall, Darryl	200 Series - Compliance Addendum Report	01 OF 02	22.08.01

Fumbally Court,
 Dublin 8,
 Tel :- +353 453 7300
 Fax :- +353 453 4062

Dwg. No.	Drawing Title	Scale	Size	Comments
01030/230	MASTER SITE PLAN	NTS	A1	AS PREVIOUS SUBMISSION
01030/231	BUILDING 1 GROUND FLOOR PLAN	NTS	A1	AS PREVIOUS SUBMISSION
01030/232	BUILDING 2 TYPICAL FLOOR PLAN	NTS	A1	AS PREVIOUS SUBMISSION
01030/233	BUILDING 3 TYPICAL FLOOR PLAN	NTS	A1	AS PREVIOUS SUBMISSION
01030/234	ELEVATION TO PLAZA	NTS	A1	AS PREVIOUS SUBMISSION
01030/235	ELEVATION TO DARTRY ROAD WINTER	NTS	A1	AS PREVIOUS SUBMISSION
01030/236	ELEVATION TO DARTRY ROAD SUMMER	NTS	A1	AS PREVIOUS SUBMISSION
01030/237	TYPICAL APARTMENT VIEWS	NTS	A1	AS PREVIOUS SUBMISSION
01030/238	TYPICAL APARTMENT VIEWS	NTS	A1	AS PREVIOUS SUBMISSION
99/04/01A	EXISTING TREE COMMON SURVEY	NTS	A0	AS PREVIOUS SUBMISSION
99/04/02A	PROPOSED TREE REMOVAL PLAN	NTS	A0	AS PREVIOUS SUBMISSION
99/04/03A	PROPOSED TRANSPLANTED TREE LOCATION PLAN	NTS	A0	AS PREVIOUS SUBMISSION
99/04/04	PROPOSED SOFT LANDSCAPING PLAN	NTS	A0	AS PREVIOUS SUBMISSION
99/04/05A	PROPOSED HARD LANDSCAPING PLAN	NTS	A0	AS PREVIOUS SUBMISSION
TRINITY 1 - 4	CIVIL ENGINEERING SURVEY OF SITE	AO	AO	AS PREVIOUS SUBMISSION
TRINITY 5	SURROUNDING ELEVATIONS	AO	AO	AS PREVIOUS SUBMISSION
9712/21/07/1	TYPICAL FLOOR PLAN, BUILDING 3	AO	AO	AS PREVIOUS SUBMISSION
9712/21/07/2	VERTICAL LAYOUT	AO	AO	AS PREVIOUS SUBMISSION
9712/21/07/3	PROPOSED FINAL SITE DRAINAGE	1:250	AO	REVISD TO CORRECT DISCREPANCIES (CDN 8)
9712/21/07/4	PROPOSED DRAINAGE FOR BUILDING 1	1:100	AO	NEW DRAWING ADDED FOR CLARITY (CDN 8)
9712/21/07/5	PROPOSED DRAINAGE FOR BUILDING 2	1:100	AO	NEW DRAWING ADDED FOR CLARITY (CDN 8)
9712/21/07/6	EXISTING SITE DRAINAGE	1:250	AO	NEW DRAWING ADDED FOR CLARITY (CDN 8)
9712/21/07/7	TYPICAL CONNECTIONS TO CORP SEWERS 1	1:20	AO	NEW DRAWING ADDED FOR CLARITY (CDN 8)
9712/21/07/8	TYPICAL CONNECTIONS TO CORP SEWERS 2	1:20	AO	NEW DRAWING ADDED FOR CLARITY (CDN 8)
9712/21/07/9	ATTENUATION POND DETAILS	1:100	AO	NEW DRAWING ADDED FOR CLARITY (CDN 8)
01030/229	BOUNDARY WALL DETAILS	1:50	AO	REVISD FOR COMPLIANCE ADDENDUM REPORT
01030/3010	SITE ENTRANCE PLAN	1:250	AO	REVISD FOR COMPLIANCE ADDENDUM REPORT

Issued to: **DUBLIN CORPORATION**
 Architect: **MURRAY O'LAOIRE ARCHITECTS**
 Client: **TRINITY COLLEGE DUBLIN**
 Issued: **1**
 Number of Copies: **4**
 Issued by: **George Boyle**
 Date: **22.08.01**
 Project No.: **01030**
 Sheet No.: **01 OF 02**
 Series: **200 Series - Compliance Addendum Report**
 Project: **Student Residences at Trinity Hall, Darryl**

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 S = Survey (0000) PP = Planning Permission
 D = Design (1000) PPP1 = Planning Compliance
 P = Preliminary (4000/9000) T = Tender Documents
 PF = Preliminary Framing
 C = Construction (4000/9000)

Existing trees shall be retained and areas shown as open space on the lodged plans shall be planted and landscaped in accordance with the plans submitted to the planning authority. The open areas shall be available for use by the students on completion of the proposed residential units. All landscaping works shall be carried out within 12 months of the completion of the buildings in the proposed development. Services and utilities shall not be laid within 10 metres of the bole of any of the trees to be retained. Prior to the

Condition No. 9

Revised drawings of the proposed development, with floor plans and elevations corresponding in detail, shall be submitted to and agreed in writing by the planning authority prior to the commencement of development.

Condition No. 8

Details of all external finishes included pavement treatments and materials to be used on the external elevations of the building shall be submitted for the written agreement of the planning authority prior to the commencement of development.

Condition No. 7

The existing roadside boundary walls and railings shall be retained except where a removal is required to provide openings for the access and egress indicated on the plans submitted. The sides to the played areas at the Party Road entrance shall be fitted with a low plinth wall and railings in accordance with details which shall be submitted to and agreed with the planning authority prior to the commencement of development.

Condition No. 6

The western arm of Building Number 3, which is on the full Party Road elevation, shall be reduced in height by the omission of the first floor. Revised drawings incorporating this modification to Building Number 3 shall be submitted to the planning authority for agreement prior to the commencement of development.

Condition No. 2

Planning permission for the above proposal was granted by An Bord Pleanála on the 04/08/00 subject to 19 conditions. Conditions Nos. 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 of this permission required:-

Ref: Trinity Hall, Darty, Dublin 6, Plan No. 1X01/99

Planning Dept. Application Refd.

DUBLIN CITY COUNCIL

15 AUG 2007

1911/07

LOCAL GOVERNMENT (DUBLIN) ACTS 1930-1991

LOCAL GOVERNMENT (PLANNING & DEVELOPMENT) ACTS 1963/2000

ORDER OF THE EXECUTIVE MANAGER

DUBLIN CITY COUNCIL

1011107
15 AUG 2007
BURLING CITY COUNCIL
Planning Dept.
Approved

commencement of development the developer shall submit details and agree with the planning authority measures necessary to protect the trees to be retained. All trees to be retained shall be protected during the development by a timber post and rail fence which shall enclose the crown spread of the trees.

Condition No. 17

- (1) Prior to the demolition of the existing gate lodge, a detailed archaeological survey shall be prepared and submitted to the planning authority.
- (2) Details of the proposed porters station adjacent to proposed building number 2 shall be submitted for approval. The development shall be carried out in accordance with the approval.

Murray O'Leary Architects have submitted details in August, September and November in compliance with the above condition. In a report dated the 24/12/01, Mr. Patrick E.A. McDonnell, Dublin City Planning Officer states that the details submitted are satisfactory and comply with the requirements of Condition Nos. 2, 6, 7, 8, 9 & 17 of the planning permission granted by An Bord Pleanála on the 04/08/00 in respect of Plan No. 1101/99 and he recommends that the applicant be so informed.

I endorse this recommendation.

[Signature]
for SENIOR EXECUTIVE OFFICER

ORDER: I direct that the applicants, Murray O'Leary Architects be informed that the details submitted in August, September and November are satisfactory and in compliance with Condition Nos. 2, 6, 7, 8, 9 & 17 of the planning permission granted by An Bord Pleanála on the 04/08/00 in respect of Plan No. 1101/99 and are acceptable to the planning authority.

[Signature]
CIARAN DUNNE
Executive Manager
Date: 4 January 2002

to whom the appropriate powers have been delegated by Order of the City Manager dated 3rd day of December 2002

THE HIGH COURT

JUDICIAL REVIEW

[2002 No. 383 JR]

BETWEEN

JAMES KENNY

APPLICANT

AND

DUBLIN CITY COUNCIL

RESPONDENT

AND

THE PROVOST AND SCHOLARS OF THE UNIVERSITY OF DUBLIN,

TRINITY COLLEGE

NOTICE PARTY

JUDGMENT of Mr. Justice Murphy dated the 8th day of September, 2004

1.1 Background

The issue arising in this application is the scope of a planning authority to

certify compliance of conditions imposed by An Bord Pleanála ("the Board") where the Board required such compliance to be agreed between developer and planning

authority and whether modifications are a "redesign by condition" or are a further

process of design evaluation which require planning permission rather than a

certificate of compliance.

The applicant, Mr. Kenny, had at all material times, lived adjacent to the

notice party's ("Trinity College") development at Trinity Hall, Darty, Dublin 6. He

had been a member of the Darty and District Preservation Association which had

initially opposed the development.

The development was undertaken pursuant to the Board's decision of 4th August, 2000 which was subject to 19 conditions. The respondent's (Dublin City Council, "the Council") had originally granted permission on 1st November, 1999 (11/01/1999).

Application for judicial review in respect of the Board's decision was heard and refused by McKechnie J. on 15th December, 2000. On 2nd March, 2001 leave to appeal was refused.

A planning compliance submission was then made by Trinity College to the Council in August 2001 with an addendum in November. On 24th December, 2001 the Planning Officer stated his satisfaction with the details submitted. A compliance order (reference 0022) issued on 4th January, 2002 confirmed that Trinity College, the notice party, was in compliance with conditions 2, 6 to 9 inclusive and 17 of the planning permission 11/01/99 granted by An Bord Pleanála on 4th August, 2000.

Development commenced on 5th January, 2002.

The present judicial review proceedings, instituted on 17th July, 2002 sought to quash the compliance order of 4th January, 2002.

The development was then completed. It consisted of a 25,000 m² three block institutional residential development with 832 bedrooms in 180 apartments. The building blocks extended from three to seven storeys and within a 4.27 hectare site on Darty Road in the City of Dublin.

In addition to the statements of grounds and opposition the court considered over twenty affidavits sworn and filed from 3rd July, 2002 to 25th March, 2004 and the evidence of several of the deponents in cross examination. Much of the affidavits, particularly the supplemental affidavits, consisted of submissions of the respective

deponent rather than averments of facts. The court will confine itself to the factual elements and the submissions of parties' counsel.

1.2 Chronology

The development of the site had taken almost four and a half years from the original application for planning permission to the completion of the three blocks.

The major events were as follows:

12/04/99	Application to respondent Council for planning permission
14/09/99	Revised plans submitted pursuant to Article 35 of the 1994 Regulations
07/10/99	Revised Environmental Impact Statement and plans submitted
11/11/99	Grant of planning permission by Council subject to 14 conditions
24/05/00	Three day oral hearing of appeal to Board by Darty and District
	Preservation Association (not a party to these proceedings)
04/08/00	Decision of Board subject to 19 conditions
03/10/00	Application for leave for judicial review of Board's decision
15/12/00	Review refused by McKechnie J.
02/03/01	Leave to appeal refused
/08/01	Planning compliance submission
/11/01	Planning compliance addendum
24/12/01	Planning officer's expression of satisfaction
04/01/02	Compliance order (ref 0022)
05/01/02	Commencement date
04/07/02	Leave for judicial review (O Caoimh J.) to quash compliance order
04/06/03	Planning grant by An Bord Pleanála for Special Olympics

20/06/03	Block 3 completed. Building occupied by Special Olympians	participants
11/08/03	Block 2 completed	
05/09/03	Blocks 1 completed	
/10/03	Blocks 3 and 2 occupied by students	
/01/04	Block 1 occupied by students	
25/03/04 to	Hearing of this application and related applications	
23/04/04		

2. Compliance Order

The planning compliance submission of Trinity College Architects, Murray O'Laoire, the Council dated August, 2001 is a lengthy detailed document of almost 70 pages subtitled "Report demonstrating compliance with An Bord Pleanála grant of permission, August 4th, 2000."

The 25 page addendum of November 2001 is, in turn, subtitled "clarifications, modifications and corrections to documents demonstrating compliance with An Bord Pleanála grant of permission August 4th, 2000".

The acceptance letter of 24th December, 2001 refers to details submitted in August, September, and November of 2001. The Council states that these are satisfactory and in compliance with conditions 2, 6, 7, 8, 9 and 17 of the planning permission of 4th August, 2000 and are acceptable to the Planning Authority.

The preamble to the order of 4th January, 2002 refers to those conditions, to the submissions and to the report dated 24/12/01 of Patrick F.A. McDonnell, Dublin City Planning Officer. That report had stated that "the details submitted are satisfactory and comply with the requirements of the conditions" and recommended

that the applicant be so informed. The Senior Executive Office endorsed that

recommendation.

The order itself was made by the duly authorised executive manager in the

terms following:

“Order I direct that that the applicants, Murray O’Laoire Architects be

informed that the details submitted in August, September and
November are satisfactory and in compliance with Condition

Nos. 2, 6, 7, 8, 9, and 17 of the planning permission granted by

An Bord Pleanála on the 04/08/00 in respect of Plan No.

1101/99 and are acceptable to the planning authority.”

3. Relief Sought

3.1 The applicant, Mr. Kenny, sought an order of *certiorari* quashing the

Council’s decision of 4th January, 2002 which had confirmed that Trinity College was
in compliance with the aforementioned conditions of the planning permission granted
by An Bord Pleanála on 4th August, 2000. Certain other declarations were sought that
the respondent had acted without power and that the acceptance of the compliance
submissions constituted unlawful material alterations to the development as permitted
by An Bord Pleanála subject to conditions. At the hearing of the application the

issues were narrowed to compliance:

Condition 2: omission of floor,

Condition 8: revised drawings and

Condition 9: retention of trees

3.2 Condition 2 was as follows:

The western arm of Building Number 3, that is on the full Darty Road elevation, shall be reduced in height by the omission of the first floor. Revised drawings incorporated in this modification to building No. 3 shall be submitted to the planning authority for agreement prior to the commencement of development.

Reason: in the interest of visual amenity.

In relation thereto the applicant sought a declaration that the agreement of the Council that Condition 2 was complied with by a submission that involved the retention of the first floor in the western arm of Building Number 3 and the omission of another floor in the said building, and the consequent compliance letter P.0022 and order of the respondent of 4th January, 2002 constituted an unlawful material alteration to the development as permitted and conditioned by An Bord Pleanála.

3.3 Condition 8 was as follows:

Revised drawings of the proposed development, with floor plans and elevations corresponding in detail, shall be submitted to and agreed in writing by the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

Mr. Kenny sought a declaration that the agreement of the Council to the installation of boilers and boiler rooms in the roof spaces of block Nos. 2 and 3 with consequent alterations to the roof design and profile and the omission of plant rooms in the said buildings as shown on the revised plans and drawings submitted to the planning authority on 7th October, 1999 by way of acceptance of the compliance

submissions made to the respondent and the consequent compliance letter constituted an unlawful material alteration to the development.

The applicant also sought a declaration that the agreement of the respondent to an increase in bed spaces in the buildings forming part of the development constituted an unlawful material alteration to the development.

3.4 Condition 9 thereof of An Bord Pleanála provided that:

“Existing trees shall be retained and areas shown as open space on the lodged plans shall be planted and landscaped in accordance with the plans submitted to the planning authority. The open areas shall be available for use by the students on completion of the proposed residential units. All landscaping

works shall be carried out within 12 months of the completion of the buildings in the proposed development. Services and utilities shall not be laid within 10 metres of the bole of any of the trees to be retained. Prior to the commencement of the development the developer shall submit details and

agree with the planning authority measures necessary to protect the trees to be retained. All trees to be retained shall be protected during the development by a timber post and rail fence which shall enclose the crown spread of the trees.” Reason: to protect the existing trees and in the interest of visual and residential amenity.

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

4. Grounding Affidavit

The grounding affidavit of Mr. Kenny, the first of his four affidavits was sworn on 3rd July, 2002, (latter affidavits of 25th October, 2002, 9th December, 2002, and 13th January, 2003). The 12 exhibits provided a narrative of the planning history and detailed the conditions referred to (paragraphs 1 to 10).

The affidavit continued with submissions regarding the impugned decision of the respondent (paragraphs 11 to 32).

The background to the proceedings (paragraphs 33 to 45) summarised the complaints made to the planning department of Dublin City Council in October, 2001, regarding the unauthorised opening of a short cul-de-sac off Temple Road.

Mr. Kenny said that at that time he was aware that Murray O'Laoire, architects for Trinity College, had made a planning compliance submission in relation to the development. He made representations in relation thereto on 3rd October and 13th November, 2001. He received no reply. By 20th December, 2001, having reviewed the file, he did not discover any material which post-dated the compliance document.

He says that on 4th January, 2002 he made enquiries and was informed that a compliance letter had issued to the developer on 24th December, 2001 which was sent on 4th January, 2002 and that a commencement notice had been filed on or about 20th December indicating a commencement date of 5th January, 2002. From his own observations he believed the work commenced on or about 7th January, 2002.

On 10th January he received a copy of the compliance letter. He wrote to the Chief Planning Officer on 14th January, 2002. A reply was received on 17th January. He wrote again on 21st January with a 21 page memorandum recording all events, complaints and circumstances relating to the development. No further response was

received until 20th February, 2002 when he received a letter from the Planning Enforcement Manager, Ms. Bernie Conlon, rejecting his complaints of non-

compliance with the conditions of the permission. Specifically Ms. Conlon stated, in relation to condition 2, that Dublin City Council considered its decision, to agree to the omission of another floor instead of the first floor, to be *intra vires*. He sought clarification. A reply was received from the Executive Manager of the Planning Department, Kieran Dunne, dated 18th April. He was dissatisfied with the reply and wrote again on 14th May, 2002. Further correspondence ensued. He stated that the position as at the date of the swearing of the affidavit (3rd July, 2002) was that none of senior officials to whom he addressed letters of complaint had responded to his

complaints or enquiries. Having previously applied unsuccessfully for leave to apply for judicial review of the grant he said that he was extremely reluctant to bring

another application for judicial review. He said that he had endeavoured to exhaust every possible avenue, that his complaints and enquiries were not treated seriously

and that the respondent did not intend to reconsider its decision to issue a compliance letter to the developer's architects. In the circumstances Mr. Kenny believed he had no option but to issue the present proceedings.

In his oral evidence to the court Mr. Kenny confirmed the matter of fact in that and subsequent affidavits. He narrowed the scope of his application to conditions 2, 8 and 9.

5. Statement of Opposition of Respondent

Dublin City Council pleaded that Mr. Kenny had failed to state any grounds which would entitle him to the reliefs claimed and had delayed to act promptly. The

Council denied its decision was without jurisdiction and, further, denied the assertions relating to the breach of conditions.

In imposing conditions the overriding concern of the Council was visual

amenity. The plans submitted by the developer's architects were in compliance with

condition 2.

The installation of boilers had been the subject of extensive discussion with

Trinity College's architects. The decentralised and relatively smaller boilers proposed

fell within the category of plant and could therefore be located in such areas of the

buildings allocated or envisaged for such use, which in the instant were the roof

space(s). As a result of the redesign of some of the mechanical services in the

buildings more room became available in the roof plant rooms thus increasing

potential extra residential accommodation space on the top floors thereby reducing the

bed spaces lost by the omission of the floor. The reason for the imposition of the

planning condition was not to reduce the density nor the total number of students

residing on the development.

There were no material variations that could not have been agreed by the

respondent. No agreement amounted to material or significant change to the plans.

The Council did not agree to any material variations from the 1999 plans nor did it act

without or in excess of jurisdiction.

An Bord Pleanála applied a condition which specifically dealt with the Article

35 discrepancies. There was no misunderstanding on the part of the Council. It was

fully accepted that Condition 8 did not authorise material or significant changes to the

plans.

It had been the objective of the Council to protect and preserve the trees on the site. The details submitted in relation thereto had been complied with and monitored as a result of extensive consultations.

The decision by the Council to issue a compliance letter in relation to condition was that the Council was satisfied that there was compliance with requirements that services and utilities could not be laid within 10 metres of the bole of any of the trees to be retained.

If the Council had deviated in anyway from the decision of An Bord Pleanála, such deviation was *de minimis*. The Council sought to comply with the decision of An Bord Pleanála in its entirety.

6. Statement of opposition of the notice party

Trinity College opposed the applicant's application for judicial review by reason of delay and failure to act promptly and by reason of the failure to disclose material facts.

It denied that the decision of Dublin City Council was without or in excess of jurisdiction; that the requirements of the conditions were not complied with or that the 1999 plans had been departed from in the revised plan submitted with the compliance submission. Insofar as any matters had been agreed by the Council on foot of the compliance order, it was pleaded that they were outside the scope of any of the conditions relating, any such non-compliance was not material and was, *de minimis*.

7. Architect's affidavit: Conditions 2 and 8

7.1. Ms. George Boyle, architect of Murray O'Laoire was Project Architect for Trinity College's development. Her affidavit referred to the background to the

development and the procedure regarding compliance (paragraphs 6 to 12). In that context Ms. Boyle stated:

- “8. I say that for any such major development Au Bord Pleanála cannot determine each and every aspect of the proposed development and I say that in my experience on any such major developments the Board determines the fundamental issues arising from the appeal and if planning permission is to be granted and if there are clarifications or modifications to the scheme required they generally by condition require that revised proposals be submitted for agreement with the planning authority.
9. I say this precisely what has occurred in this case in terms of conditions 2, 8 and 9 of the Permission. I say that it is clear from the decision that while the Board accepted the board principles of the Development as submitted there were certain issues that they wished to have clarified and/or modified and I say that in conditions 2, 8 and 9 they required that these matters be submitted for agreement with the Planning Authority.
10. I say that in my experience these conditions are not at all unusual, indeed I say that there would be very few decisions issued by the Board for a development of this size and scale which would not contain such conditions. I say that the matters which are generally left for determination between the developer and the Planning Authority are technical issues which the Board consider as a general rule are best left to be determined between the Planning

authority and the developer in the event that the principle of the proposal is acceptable.”

7.2 She then *inter alia*, referred to the difficulties of interpretation of condition 2 and the negotiations with the Council in relation thereto:

“19. Following a careful consideration of the terms and conditions of the permission, it became clear that a literal reading of Condition 2 was neither logical nor in accordance with considerations of common sense relating to the design and construction of buildings, for reasons set out more fully below. Indeed, the difficulties associated with a literal interpretation are acknowledged by the Applicant in his memorandum to Sean Carey dated the 22nd January, 2002. nonetheless, the Notice Party and Respondent herein were of the view that An Bord Pleanála had intended to grant permission and that an element of flexibility was to be offered in the interpretation of the condition provided it remained true to its intention and provided that ‘modifications’ as envisaged in Condition 2 were approved by the Respondent.

Condition 2 applied to Building No. 3 on Darty Road which was the building closest to the applicants residence and within sight of his house.

Ms. Boyle referred to the consultations with the council as follows:

“20. I say that following consultants (outlined below in more detail), the Respondent approved revised drawings for Building 3 which incorporated the design of the 199 plans with the single exception that the western arm of Building 3 was a storey lower (with the exception

of the northern "bookend" element referred to further below). The

Respondent required that information be provided in the Compliance Submission and the Addendum in order that the interested public be

aware of the extent of the modification agreed on foot of Condition 2.

21. Intensive consultations took place between the Respondent and Notice

Party from January – December 2001 regarding the interpretation and

implementation of Condition 2 as it became clear that a literal

interpretation rendered it meaningless. This is because the removal of the 'first floor' in its entirety (the floor, associate rooms, spaces, and

the directly associated external envelope) would considerably disrupt if not destroy outright the visual amenity of the Development in terms of

overall design consistency. This is so for a number of reasons set out

below."

Ms. Boyle referred in particular to the design, profiled three dimensionally,

where the first floor was stepped out over a foot past the rest of the facade. The first

and second floor were connected together intrinsically, both structurally and

architecturally, in such a way that the removal of one of the floors would severely

impact on the integrity of the building unless a major redesign was carried out. It was

clear from conditions 2 and 8 that a major redesign was not permissible.

Modifications to the design were envisaged by the condition. She believed that it was

relevant to an understanding of the difficulties posed by a literal interpretation of the

condition that the Darty Road elevation (buildings 2 and 3) were described in all

submitted documents as a "composite elevation". Only if the consistency of a

setting/design principle were maintained along the whole extent of that street facade

would the buildings be deemed architecturally authentic. This was in accordance with the request from Dublin City Council, the planning authority, in September, 1999 requesting 'provision of a 'street' scene along the Darty Road frontage similar to the strong scenes of streetscape experienced along Palmerston Park and Palmerston Road'. This request was complied with by Trinity College in its submissions of 7th October, 1999 which provided as follows:

"The massing and skyline of the footprint shown to reflect the longer expanse of elevational plains as manifest in the continuous building along Temple Villas, at Palmerston Road and at Palmerston Park which are similarly set back from the road behind large mature trees. The consistency and articulation of these facades will satisfy the stipulations of provision 3 of the s. 35 provisions."

It was clear, she said, that design coherence and consistency was a

requirement mandated by the Council. Ms. Boyle referred to the Article 35 request and the 1999 submissions. She said that the planning authority did not consider it to be An Bord Pleanála's intention to destroy the architectural integrity of the proposal nor to frustrate the proposal by imposing a condition that was structurally unenforceable.

She believed that the intrinsic design relationship between plan and elevation and between the first and second floors throughout the scheme may not have been clearly obvious to An Bord Pleanála. Drawings submitted with the 1999 submission and reviewed by the Board were simplified representative versions: they did not fully describe the modulation of the façade. The meeting of the Board on 3rd August, 2000 decided to grant permission in accordance with the inspector's recommendations

“subject generally to the amendments shown in manuscript on the attached copy of the inspector’s draft schedules”.

Ms. Boyle believed that Dublin City Council determined that it was clearly not the intention of An Bord Pleanála to frustrate the implementation of the planning

permission. A literal interpretation in condition 2 would have had such an effect. The Council interpreted the intent of the condition to mean that the height of the building be reduced by one floor and that the set back at the upper floor level be retained. In a complex development the Council had a certain degree of flexibility in determining conditions that were not entirely clear – an element of discretion was allowed under the condition which provided “revised drawings incorporating this modification to building No. 3 shall be submitted to the planning authority for agreement prior to the commencement of the development. A number of options were provided to the Council including a literal interpretation of the condition which was rejected by the Council as it did not further the explicit purpose of the condition, namely, visual amenity. The Council approved one option which accompanied the 1999 submission.

Ms. Boyle referred to Mr. Kenny’s memorandum to the Assistant City

Manager of 22nd July, 2002 which referred to the design problem which arises from the condition with regard to what he termed the “bookends” at each side of the western arm of Building 3. Mr. Kenny had said that “Residents could not reasonably

object to the manner in which this design difficulty is resolved because it has to be resolved in good architectural terms”.

7.3 The installation of boilers involved the provision of gas pipes underground and vertical duct risers which bring the gas to the boulder rooms which are to be located in the roof space on foot of the said Compliance Order. I say that as of the

date of the application for leave, 4th July, 2002, and there vertical duct risers 90% of underground services in connection with the boilers had been provided to the three buildings. Moreover she averred that approximately 40% of the works necessary to provide the roof space boilers had been completed.

7.4 In relation to Condition 9 at the date of application for leave, approximately 85% of services and utilities affected by the condition had been laid on site. An inspection carried out by her on site on 1st May, 2002 they were then, in the main installed.

8. Arborist's and landscape architect's affidavits re: Condition 9

8.1 The affidavits of Mr. Joseph McConville (sworn 2nd September, 2002 and 22nd November, 2002) related to the protection of the trees on the site. Mr. McConville referred to the ongoing consultancy services in respect of the development, his conversations with representatives of the Parks Department of the Council, his extensive survey of the 275 trees on the site and their location within five separate zones. Mr. McConville said that it was impossible to apply a literary reading to condition 9 in its entirety given that buildings were to be located within 10 metres of the bole of circle of the trees. Approximately 5% (16/275), of the trees had services/utilities within 10 metres of the bole; this was not a material deviation and in his view amounted to substantial compliance with the terms of condition 9. In his opinion the method chosen of rendering the entire area off limits for a contractor was an appropriate alternative ensuring the higher standard of protection for trees. Occasional access to the area was had by the contractors.

He estimated that 20/275 of the trees were not protected to the exact extent of their crown spread. This amounted to 7% in total and did not amount to a material deviation from the conditions. It amounted to compliance insofar as practicable with the terms and conditions of the permission, read as a whole. Tree protection measures of the highest degree had been undertaken.

8.2 Mr. McConville said that if a literal interpretation were to be given to

condition 9 it would be necessary to erect a fence halfway across Darty Road. The measures which were adopted provided a high degree of protection s was reasonably possible and in accordance with best international standards. He referred to BS

5837:1991 and to general rule of thumb when a development is under the supervision of an arboriculture specialist that construction works may occur closer but not more than one third of the minimum distance. The removal of the 17 trees was within the terms of the permission.

8.3 Mr. Terence Murray, landscape architect had been retained by the Darty and District Preservation Association and, at the request of Mr. Kenny, the applicant herein, visited the site on 6th November, 2002 accompanied by Ms. Boyle, Mr. McConville and by Mr. Sheehan, Quantity Surveyor employed by Michael McNamara and Co., the second named notice party.

In his affidavit sworn on the 8th November, 2002, Mr. Murray said that he was familiar with the compliance submissions in respect of condition 9. He had read the affidavits of Mr. McConville and the relevant extracts of Ms. Boyles affidavit. He was informed by Mr. Kenny of failure to protect the crown spread of trees. He carried

out an inspection and concluded that a high degree of attention in monitoring for possible tree damage was taking place.

Mr. Murray concluded that by far the greatest number of trees to be protected were on the outer side of a timber hoarding from Darty Road to the Temple Road cul-de-sac; the crown spread of 14 out of 16 trees were not fully enclosed by the hoarding. The 10 meter exclusion zone was "being generally well observed throughout the sites". He was shown only two places where it had not been observed: one slight and the other where there might be a consequential risk but was unavoidable. He was informed by Ms. Boyle that a line of 17 trees had been removed within the terms of the Board's planning permission.

9. Project Officer's Affidavit

Mr. Tom Merriman, Acting Project Officer, of Trinity College, having referred to the background of the case averred that there was a failure on the part of the applicant to make material disclosure to the court at the date of the ex-parte application. In particular the applicant's affidavit of 3rd July, 2002 failed to disclose the extent of works carried out in relation to the development.

That affidavit also failed to disclose that the Taxing Master had made an order of costs against the applicant in the amount of €123,000 approximately in favour of Trinity College and failed to disclose certain correspondence.

He believed that the decision of An Bord Pleanála required Trinity College and the Council to agree how compliance with the conditions was to be achieved. The conditions contained no express requirement for consultations with third parties. He believed that the compliance submission as approved by the Council did no more than what was required by An Bord Pleanála which vested jurisdiction to determine

these matters with the Council. In the circumstances he believed that the development was in compliance with the permission granted by An Bord Pleanála.

10. Affidavit of Anthony Gallagher

10.1 Mr. Gallagher, Architect, who had objected to the development was a

founding member of the Darty and District Preservation Association which was set up to represent local residents' objections to the proposed development. His affidavit sworn 24th October, 2002 replied to certain averments made by Ms. George Boyle, inter alia, at paragraphs 8, 9 and 10 of her affidavit.

He said that he completely disagreed with her averment that "for any major development An Bord Pleanála cannot determine each and every aspect of the

proposed development" and that "the Board determines the fundamental issues arising from the appeal".

Mr. Gallagher said that he believed that the request from the Board for modification or redesign cannot, in his opinion, be equated with requiring a revised "proposal" to be submitted for agreement with the planning authority.

He referred to the oral hearing held by the Inspector of the Board. He believed Ms. Boyle to be fundamentally mistaken in restricting the Board's role to that of merely deciding on principle if a proposal was acceptable. This only applied where outline planning permission was being sought.

He further took issue with regard to the acknowledgment of "the difficulties associated with the literal interpretation" of the Board's second condition. He considered the new proposal to be a material change because the effect on the façade design which would have followed the removal of the first floor would not be achieved. Trinity College, he believed, could not justify its failure to comply with the

condition which the Board had imposed on the grant of planning permission by

relying on what was referred to as a "design coherence and consistency" which was, Ms. Boyle had said "a requirement mandated by the respondent".

Mr. Gallagher said that he had been unable to discern any design features

which, on removal of the first floor, could not have been accommodated within a design modification and was, accordingly, not a condition which was structurally

unenforceable.

10.2 Further averments in relation to this matter undermined the disagreement

between the two architects with regard to:

- compliance,
- information had by An Bord Pleanála at the oral hearing,

- the interpretation of the condition (flexible or literal interpretation), and

- the adequacy of plans approved by the Council.

He did not accept that "there was an error in the elevational drawings

accompanying the October 1999 submission in relation to the roof pitches of building 3 which did not affect the height of the building."

10.3 Mr. Gallagher disagreed with the assertion that the installation of the boiler

equipment and plant rooms in the roof space did not require planning permission. He

also disagreed with Ms. Boyle's assertion that "the location of the boiler in these plant

rooms was not a material deviation from the 1999 plans". Boilers and flues, based on

his experience, required planning permission. They do not fall within any of the

classes of exempted development. Irrespective of the boilers' size planning

permission is always required for their installation and for a change in their location.

He submitted that Ms. Boyle should have shown the gross floor area calculations and made exhibits available. There were no cross sections through the buildings to show plant room noise and air pollution emissions. No data existed to support the statement that "under no circumstances would the applicant be aware, visually or otherwise of the location of the plant room". He believed the averment that noise and air pollution potential had been grossly reduced to be loose and haphazard. No forecasts of such potential were disclosed to the planning authority. He believed that the approach adopted by Trinity College was an attempt to introduce complete flexibility into the re-ordering of internal spaces to suit the developer's needs from time to time. Mr. Gallagher expressed doubts as to the planning permissibility of such a course particularly in the institutional use of buildings.

10.4 He also referred to condition 9 relating to the services and utilities being laid within 10 metres of the bole of any tree to be retained and knew no basis upon which it could be argued that some meaning other than a literal meaning could be understood.

Mr. Gallagher believed that the Board could not vest jurisdiction in the planning authority with regard to such a matter.

10.5 Mr. Gallagher made submissions in relation to the manner in which Trinity College sought to depart from conditions expressly laid down by An Bord Pleanála. He believed it to be quiet wrong for a developer to seek to excuse significant and material departures from approved plans and impose conditions by treating them as "technical deviations".

11. Applicant's Second Affidavit

11.1 Mr. Kenny's second affidavit of 69 paragraphs, sworn on 25th October, 2002,

was in reply to the affidavits of Ms. Boyle, (para. 7 above), Mr. Merriman, (para. 9 above) and Mr. McConville, (para 8 above), taking issue with the same.

While he and other affected residents in the neighbourhood agreed that the development was major they took issue with the description that it was complex. He repeated his objection to the functions of the Council as planning authority and An Bord Pleanála.

11.2 He referred to the oral hearing and the objections by the Darty and District Preservation Association including himself and Mr. Gallagher. He referred to the considerable number of submissions, including extremely detailed submissions, the 150 page Inspector's report and the detailed, clearly worded, conditions. Mr. Kenny repeated some of the submissions made in his first affidavit and said that the

conditions imposed by the Board were clearly and unambiguously worded. He said that the Board did determine all aspects of the development and left no issues in abeyance which required clarification. The role of the planning authority was simply to ensure that the proposals submitted would be fully and faithfully implemented.

He maintained that the Council was not permitted under the guise of agreeing revised plans required by a condition imposed by the Board, to reconsider design matters which had already been considered by the Board in the course of the appeal process. A fresh application for permission was open to a developer who was dissatisfied.

He did not understand Ms. Boyle's reference to "viability" of Building 3 which he says is not a matter which is material to the proper interpretation of

condition 2. She did not say, he pointed out, that it would not have been possible to redesign that building in accordance with such condition. An Bord Pleanála was in possession of the same documentation, plans and drawings as the Council.

The "design coherence and consistency" raised by Ms. Boyle was not binding on the Board. There was no factual basis for the assertion that the Board "did not give detailed consideration to the consequences of a literal interpretation of the condition".

He contrasted Ms. Boyle's reference to the "determination" of the Council with the phrase that it was "not the intention" of the Board which would give the former the power to rewrite and circumvent the decision of the Board.

Mr. Kenny referred to the retention of both "bookends" at the original five storey height and to the removal of the first floor. In that regard he says the Board made no stipulation with regard to what should happen to the bookend at the northern end of the western arm. The Board chose to select the first floor, not an intermediate floor, for removal, without making any reference to the bookends.

Mr. Kenny referred to the increase in height of the roof of approx. 0.5m by the change in roof pitch and believed it to be *ultra vires* the Council agree where it had deemed the sleeper roof pitch "to be of significant importance in terms of visual impact". This involved the Council in a design evaluation process.

11.3 Mr. Kenny referred to the application for a fire certificate and the location of the boiler house. The new fire safety certificate in respect of 1st August, 2001

application was granted on 27th September, 2001. That involved the removal of boilers from the previously approved basement locations in building 3 to the roof void level of that building facing on to Temple Road. He was not aware that an application in relation thereto had been made.