



An
Bord
Pleanála

Inspector's Report PL 29S 247583

Development

Eight Year Permission for demolition of existing residential buildings and construction of a Residential Development of 121 apartments and a crèche in seven blocks, basement and surface car and cycle parking, vehicular access at Harold's Cross Road, pedestrian access at Greenmount Lane, storage landscaping, attenuation, amenity and play facilities.

Location

Harold's Cross Road, Greenmount Avenue, Limekiln Lane, Greenmount Lane and Parnell Road, Harold's Cross, Dublin 6.

Planning Authority

Dublin City Council.

P. A. Reg. Ref

3605/16

Applicant

The Adroit Company.

Type of Application

Eight Year Permission

Decision

Refuse Permission

Type of Appeal	First Party Against Refusal of Permission
Appellant	The Adroit Company
Observers:	<p>Harold's Cross Bridge Community Council.</p> <p>Parnell Road Greenmount Lane Residents, (Patrick Duggan)</p> <p>Rosemary O'Halpin, Parnell Road</p> <p>Amanda Philp Greenmount Lane,</p> <p>David James, Greenmount Lane,</p> <p>Patrick Duggan and Ann Currie, Parnell Road.</p> <p>Brendan and Catherine McGarry, Limekiln Lane.</p> <p>Patricia Delaney, Greenmount Lane. Peter McLoughlin and Joseph O'Dea, Greenmount Lane,</p> <p>Eamonn Kennedy, Parnell Road,</p> <p>Claire Percy and David Russell, Parnell Road.</p> <p>Liam Mulcahy and Fiona Murphy, Parnell Road.</p>
Date of Site Inspection	19 th January, 2017.
Inspector	Jane Dennehy.

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1.0 Site Location and Description

- 1.1.1. The site has a stated area of 9,980 square metres is to the south of Parnell Road on the south side of the Grand Canal, (R111) and south west of Robert Emmet Bridge over the Canal and east side of Harold's Cross Road, (R137) There is a gated residential duplex development on the site comprising Nos. 1 to 50 Harold Bridge Court which was constructed in the 1990s. It has access from Harold's Cross Road via an entrance shared with the Greenmount Office Park.
- 1.1.2. A disused warehouse the last occupant of which was Eircom which has frontage and access directly onto Greenmount Lane to the west. Also within the site to the west of Harold Bridge Court east of the disused warehouse on Greenmount Lane and south of Nos 1-4 Parnell Road is a terrace of three early Georgian Houses (Nos 1-3 Clare Villas) which are accessed via a private lane (over which there is a right of way) from Parnell Road.
- 1.1.3. Small terraced cottages are located on Greenmount Lane and Limekiln Lane to the south west and commercial development (including Argos House) and residential development is to the south with frontage onto Harold's Cross Road to which there is access from Harold's Cross Road and Greenmount Avenue.
- 1.1.4. To north are commercial buildings with frontage onto Parnell Road. Further to the west along Parnell Road there are late eighteenth/early nineteenth century terraced houses. Greenmount Industrial Estate is to the west. There is a shared access to the area in which the three houses at Clare Villas are located along which there is a right of way from Parnell Road

2.0 Proposed Development

- 2.1. The application lodged with the planning authority on 29th August, 2016 indicates proposals for:

Demolition of the existing structures on the site; the Harold's Bridge Court apartments and duplex units, three houses at Clare Villas and the disused warehouse and ancillary structures.

Construction of a residential development comprising seven blocks providing for a total 121 apartments (18 no 2 and 3 bed units), which are in excess of

100 square metres in floor area and 103 two bed units ranging from eighty to ninety-one square metres in floor area) incorporating a crèche facility on the floor in one block. The blocks are three and four storey blocks with a total stated floor area of circa 12,874 square metres excluding parking, storage and ancillary space.

Construction of a basement carpark with 134 car spaces and eighty cycle spaces and provision for six surface set down spaces (for drop off and collections at the crèche) at Greenmount Lane, forty-eight surface cycle spaces and access ramp and road and entrance at Harold's Cross Road, gated pedestrian entrance at Greenmount Lane, solar panels, bin storage, attenuation and hard and soft landscaping including amenity space and children's play facilities.

- 2.2. The application submission includes a Design Statement (incorporating a Shadow analysis), Transportation Statement, Infrastructure Design report, Flood Risk Assessment, Landscape works and Management Plan, Construction management Plan, Appropriate Assessment Screening and a Planning report prepared by the applicant's agents. Written confirmation of two way leaves, one along the north east boundary and one north south bisecting the site is also provided.

It is confirmed that it is intended that the development be managed by a private management company and that the applicant is willing to enter into a Section 96 agreement in fulfilment of Part V commitments.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 20th October, 2016 the planning author decided to refuse permission for our reasons: In summary they are:

1. Negative impact and serious injury to the amenity of on existing residential development due to number, scale and layout of the blocks.

2. Overlooking within the development resulting in substandard residential amenity for future residents. Close proximity to adjoining boundaries of crèche play area and storage would be seriously injurious to the amenities of existing adjoining and future residential development.
3. Substandard development with regard to standards in statutory guidelines and development plan due to poor permeability and streetscape quality.
4. Material contravention of the Z6 zoning objective providing creation and protection of enterprise and employment and establishment of precedent.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer indicated concerns about:

- the impact on amenities of adjoining existing residential development due to the number of units and blocks, scale and layout of the proposed development.
- The impact on adjoining development due to differences in ground levels within and outside the site, height, proximity to boundaries and overlooking from windows and balconies;
- The impact on residential amenity at No. 20 Greenmount Lane and Nos 5-7 Parnell Road due to the location of crèche and outdoor play facility and balconies overhead
- Poor attainable standards of residential amenity for future residents due to layout of Block 3 and proximity to Block Nos. 1, 2 and 4.
- Lack of a quality active streetscape between Harold's Cross Road and Greenmount Lane and poor permeability and pedestrians and cyclist linkage, (north south and east west) across the site.
- Visual impact of the four storey gable elevations of Blocks 5 and 6 presenting onto Greenmount Lane and Block Nos. 1 and 2 behind a 2.4 m high wall on Harold's Cross Road frontage.

3.2.2. Other Technical Reports

The Roads and Transportation Department report dated, 29th August, 2016 indicates a recommendation for additional information in relation to rights of way, sight lines, at the Harold's Cross Road entrance, and a swept path analysis for the basement carpark. Concerns about lack of permeability and pedestrian and cyclist linkage and whether Limekiln Lane entrance is to be gated and potential exacerbation of parking congestion on Greenmount Lane due to drop offs and collections at the proposed crèche facility are also recorded.

The Waste Management Department report indicates recommendations for preparation of design for waste storage provision at design stage and general requirement for provision within the development.

The report of the City Archaeologist indicates no objection subject to conditions.

3.2.3. Third Party Observations

Several observer submissions were received from by the planning authority from residents of individual properties and from residents' associations in which the main concerns raised include:

- impact on residential amenity and existing property value due to the scale and size;

- intensity and proximity of the proposed development to established development,

- traffic congestion, flooding risk, loss of sunlight and daylight, anti-social behaviour and,

- concerns about the impact of the demolition and construction stage.

3.2.4. Most of these parties have also submitted thirty party observations on the appeal.

4.0 Planning History

4.1. PL 214671/ P. A. Reg. Ref. 4261/05: The planning authority decision to refuse permission for a residential and live work unit development on the site in five blocks of four to six storeys was upheld following appeal for reasons relating to impact on

residential amenities in the area due to scale height and mass, overdevelopment and loss of public open space. (A copy of the order and report is attached.)

- 4.2. PL 122977/P. A. Reg. Ref. 1490/00: The planning authority decision to grant permission for a residential development on part of the site was overturned and permission was refused on the basis relating to impact on character and residential amenities of existing property in the area due to scale, height and proximity to existing development and overlooking. (A copy of the order and report is attached.)

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site comes within an area subject to the zoning objective: Z1: *“Sustainable residential neighbourhoods”*, with the objective, *“To protect, provide and improve residential amenities.”*
- 5.1.2. Chapter 17 provides for policies, objectives and standards for residential development; infill in Section 17.9.7 and minimum standards for internal accommodation and private open space provision in 17.9.1.
- 5.1.3. Most of the site, the exception being an area at the west side including the site of the disused warehouse is subject to the zoning objective Z1: *To protect, provide and improves residential amenities*. The remaining area is subject to the zoning objective Z6: *To provide for the creation and protection of enterprise and facilitate opportunities for employment creation.*¹ However, in the course of the review of the development plan, a proposed rezoning of the western section of the site from Z6 to Z1 was not agreed to by the members and the Z6 zoning is retained.) According to Para 14.8.6, Development within Z6 zoned lands has the requirement that development including possible residential development must be subsidiary to the Z6 employment generating land use and not conflict with the primary objective providing for employment requirements of the city.

¹ (The Draft Plan zoning maps available at the time of writing indicate the site in entirety within an area subject to the ‘Z1’ zoning objective.)

5.1.4. According to section 2.2.8.1 a Local Area Plan will be prepared during the lifetime of the plan Harold's Cross which is one of the areas which will be subject to large scale development.

5.1.5. The site area comes within a zone of archaeological potential.

5.2. **Strategic Guidance.**

5.2.1. The apartment development would also be guided by the recommendations and minimum standards in, "*Sustainable Designs for New Apartments: Guidelines for Planning Authorities: 2015*, (DOECLG)

5.2.2. The crèche facility would be guided by the recommendations and minimum standards in, "*Childcare Facilities: Guidelines for Planning Authorities*. (DOE. 2001)

6.0 **The Appeal**

6.1.1. An appeal was received from Stephen Little and Associates on behalf of the applicant on 16th November, 2016 in which detailed information on the planning background and context is provided and it is requested that the application be considered *de novo*. The appeal is based on application of the newly adopted Dublin City Development Plan, 2016-2022.² It is stated that the applicants unsuccessfully sought a rezoning of the Z6 lands within site area to Z1 lands when the development plan was reviewed but that the proposed zoning, which was accepted and recommended by the Chief Executive but was not accepted by the Members of the City Council.

6.1.2. Although it is asserted that the proposed development is acceptable without modification, several amendments are proposed for consideration, and for implementation, if required, in section 6 of the appeal and are outlined below in advance of an outline of the appeal in support of the proposed development as submitted in the application without modification.

² The planning authority considered the application with reference to the Dublin City Development Plan, 2011-2017.)

6.2. Amendments Proposed for Consideration in connection with the Appeal are outlined below:

Blocks 1 and 2: Rotate or flip so that the entrances are direct off Harold's Cross Road activating the street frontage. Modify the boundary treatment providing for a plinth and railings.

Block 3: Re-orientation clockwise to reduce overlooking with Block 2 and 4, relocate the balconies in this south west corner to face west with obscure screens at the southern edge where they face Block 4 and on provide obscure screens on east edge facing Block 2.

Block 5: At ground floor level, relocate the crèche to Block 6 and the three apartments in Block 6 to Block 5. The play area would be moved away from the northern boundary. Glazed screens on the north side of the balconies on the east and west elevations and angled north elevation windows to prevent overlooking of properties to the north. Provide additional windows the west elevation at all levels to animate frontage onto Greenmount Lane.

Block 6: At ground floor level substitution of the crèche for the apartments with the outdoor play area in the wayleave area between Blocks 6 and 7 at a distance from adjoining boundaries. A small study room in ground floor apartment can be used as a home-based office in accordance with the Z6 zoning objective.

Relocation of balconies on south elevation to face east and west and provide obscure screens on southern edge. An angled window can be provided on southern elevation to prevent overlooking to the south and windows added on to the west elevation to animate Greenmount Lane frontage.

Block 7: Relocation of balconies on east elevation to face north and south and provide obscure screens at eastern edge of balconies. Windows on east elevation can be angled to prevent overlooking and potential adverse impact on future residential development at Greenmount Office Park.

6.3. An outline of the appeal follows:

6.3.1. The proposed development:

- Responds to the shortage in housing supply
- responds to current government policy on housing and homelessness,
- provides for sustainable residential density on a well located site in accordance with statutory guidance *Sustainable Residential Development in Urban Areas*, (DOEHLG, 2009),
- consolidates the Metropolitan area in accordance with the *Regional Planning Guidelines for the greater Dublin area*.
- Accords with the Z1 and Z6 zoning objectives. There is a precedent for compliance with the Z6 zoning objective which was established in the grant of permission under PL 29S. 214671.
- Accords with “*Childcare Facilities: Guidelines for Planning Authorities*” and provides employment as per the Z6 zoning objective by provision for the crèche facility.
- Accords with standards in *Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities* (DIEC & LG) 2015) having regard to dwelling unit size, internal design, private and communal open space provision.
- Accords with Development plan standards for:
 - dwelling mix
 - building height (Building Height Strategy)
 - plot ratio and site coverage
 - car parking and cycle parking provision.Separation distances from existing development and where twenty-two metres is not achieved within the scheme, other devices have been implemented to ensure no undue overlooking or loss of privacy.

6.3.2. Appeal against Refusal Reason One:

- The proposed development is not overdevelopment and it complies with Development plan standards:
- It provides for a plot ratio at 1.3 where the indicative ratio for Z1 is 0.5-2.5 and Z6 is 2.0-3.0, for site coverage at 34% where the indicative coverage is 45-50% for Z1 and 60 % for Z6 lands,
- The building height strategy provides for accommodation is in three and four storey blocks with the four storey blocks concentrated towards the centre and east side of the site; Blocks 5 and 6 are stepped down to three storeys at the gable ends of existing dwellings to the north and south with roof pitches angled towards the boundary address transition needs to the gable end of the single storey cottages amenity space and overshadowing as indicated in the shadow analysis and overlooking.
- Any residual overlooking from Blocks 5, 6 and 7 can be addressed by design mitigation including relocation of balconies and windows design.
- Block 5 is to the south of No 20 Greenmount Lane and residential properties on Parnell Road. The tapering of building heights in the proposed development together with the characteristics of the existing properties adequately mitigate potential overbearing impact. (A sketch is provided.)
- No overshadowing would occur to No 20 Greenmount Lane. Overshadowing of confined areas at the ends of the rear gardens of the Parnell Roads properties in equinox scenarios would occur but the slight impact accords with BRE standards. Overlooking of No 20 Greenmount Lane cannot occur it has a gable wall and open space on the north side which is away from Block 5.
- Block 6 is stepped down to three and one storey at the southern elevation to address the transition to the cottages on Greenmount Lane and Limekiln Lane. Many of the cottages are extended into and therefore have reduced private open space to the rear (Contiguous elevation CC refers). The gable of the existing warehouse fronts these dwellings. The cottages will not be overshadowed; direct overlooking is avoided but given the

dense urban environment some overlooking at upper floors can be expected.

- Block 7 is to the west of Greenmount Office Park. The buildings have adequate separation from this block owing to a carpark and windows facing north and south with Argus House in relation to Block 7. There are commercial buildings but that the lands are zoned Z1 and could be redeveloped for residential development in the future and can be designed to mitigate overlooking with Block 7.

6.3.3. Appeal against Refusal Reason Two.

- At pre-planning consultation flexibility with regard to a twenty-two metre separation distance between blocks was agreed subject to design mitigation preventing overlooking. Bathrooms are on the east and west elevations for Block 3 and the north, rear elevation fronts the northern boundary. Potential direct overlooking between Blocks 2, 3 and 4 is confined to balconies on the southern elevation of Block 3. Relocation and screening of balconies addresses the problem. Angled windows are used in the wider development and only indirect overlooking could occur.
- The crèche and outdoor play area in Block 5 and adjacent to No 20 Greenmount Lane accords with statutory guidelines. The relationship with No 20 Greenmount Lane where open space is to the north side of the house and the relationship with the Parnell Road properties which have long rear gardens is acceptable. Small numbers of children would use the outdoor space at one time and it will only be used during crèche operational hours. The commercial element of the crèche is based on the Z6 zoning.
- The bin store, located to the north of Block 5 does not adjoin the party boundaries and is perfectly acceptable and compatible with the amenities of the adjoining properties which have long gardens.

6.3.4. Appeal against Refusal Reason 3.

- The proposed development improves the presentation onto Greenmount Lane, replacing the disused warehouse. With Blocks 5 and 6 allowing for visual permeability (over low wall with railings) along a landscaped spine between the two blocks and increased passive surveillance of Greenmount Lane. Pedestrian/cyclist access is also available via a pedestrian gate.
- The proposed development provides a comparable presentation to the existing development onto Harold's Cross Road and provides for a privacy/acoustic screen. A transparent gate provides visual permeability at the entrance.
- The access at Harold's Cross Road and at Greenmount Lane will be gated to ensure security. The development is to be a private development. Controlled access is considered essential and it is not accepted that permeability is reduced by such measures. If required a condition can be attached to address local pedestrian permeability.

6.3.5. Appeal against Refusal Reason 3.

- The proposed development complies with the Z6 zoning objective in which childcare is permissible in principle and residential development is open for consideration and the ratios are not fixed. Fifteen per cent of the site area in which Blocks 5 and 6 are to be located come within the Z6 zone and this area has marginal ability to sustain employment generating potential due to lack of linkage, poor vehicular access and predominant residential use in the environs. The crèche has a capacity for fifty to sixty children and eight to nine employees.
- There is precedent in the prior application under P. A. Reg. Ref. 4261/05/ PL 29S 214671 for apartment and for live work units for which permission was refused but in which material contravention of the Z6 zoning objective was not an issue amongst the reasoning.
- Change to Z1 was sought in the proposed amendments to the Draft development plan at the request of the developer with the support of the Chief Executive and this demonstrates the intent for the planning

executive to remove the Z6 zoning objective because residential zoning is more sustainable for the site.

6.4. **Planning Authority Response**

- 6.4.1. A submission was received from the planning authority on 15th December, 2016, in which it is stated that it is considered that the modifications proposed in the appeal do not address the issues in the reasons attached to the decision to refuse permission.

6.5. **Observations.**

- 6.5.1. Observations have been received from the following parties:

Harold's Cross Bridge Community Council.

Parnell Road Greenmount Land Residents, (Patrick Duggan)

Rosemary O'Halpin, Parnell Road,

Amanda Philp Greenmount Lane,

David James, Greenmount Lane,

Patrick Duggan and Ann Currie, Parnell Road,

Brendan and Catherine McGarry, Limekiln Lane,

Patricia Delaney, Greenmount Lane,

Peter McLoughlin and Joseph O'Dea, Greenmount Lane,

Eamonn Kennedy, Parnell Road,

Claire Percy and David Russell, Parnell Road.

Liam Mulcahy and Fiona Murphy, Parnell Road,

- 6.5.2. Most of the Observer parties are occupants of adjoining properties and properties in the vicinity and two parties are residents' associations. To avoid repetition and duplication the following outline summary is based on a review of all the submissions: In some or all objections:

- The decision to refuse permission and the reasons for the decision to refuse permission are supported,

- The modifications proposed in the appeal are rejected as being ineffective in overcoming the reasons for refusal of permission.,
- The concerns of the parties and additional issues of objection not included in the reasons for refusal of permission are raised
- None of the parties have indicated support for the proposed development.

6.5.3. The issues of concern are:

- Impact on structural stability of adjoining properties of extensive excavation to facilitate the development which will take place very close to adjoining property boundaries. Some properties are old, historic properties – without foundations. There are serious implications for structural stability.
- Potential contamination and pollution from demolition and excavation works. The former warehouse may have once been an oil refinery
- The proposed development is in material contravention of the Z6 zoning objective providing creation and protection of enterprise and employment.
- The intensity of development is excessive for the location and amounts to overdevelopment of the site.
- The separation distances between most of the blocks are insufficient and they have overbearing impact within the development as they are too close to each other and to the site boundaries.
- There is limited potential outdoor amenity at the balconies and because of overshadowing and lack of sunlight to the units within the development.
- The modifications proposed in the appeal are not sufficient and perceptions of overlooking will occur. The development would not be consistent with the recommendations with the statutory guidance for residential development: “*Sustainable Residential Development in Urban Areas*”.

- There is insufficient provision for high quality communal and public open space within the development. A financial contribution in lieu of provision is not acceptable because there is a lack of open amenity space nearby. The closest area is the small Park at Harold's Cross.
- Nearly all the units within the scheme are two bed apartments. This lack of dwelling is contrary to the development plan Section 16.4 and the statutory policy for creation of sustainable new neighbourhoods. (*Sustainable Urban Housing: Design Standards for New Apartments*, 2015 DOECLG)
- There is poor relationship between the crèche and apartments as the crèche is too close to the apartments. The proposed relocation in the appeal from Block 5 to Block 6 does not address this incompatibility.
- There is a lack permeability and linkage within the scheme and between the scheme with the surrounding area, active street frontage. Lack of connectivity with the surrounding area does not encourage integration into the wider community.
- The creation of another gated community on the site should be discouraged. This is contrary to the development plan (section 16.2.2.1) and statutory guidance (*Sustainable Urban Housing*. (2015)
- The proposed development is in material conflict with the Grand Canal Conservation area and it would adversely affect the setting of protected structures as provided for in section 11.1. 5.6 of the development plan in that the protected structures on the north side of the Grand Canal would be affected. The required assessment of architectural heritage impact was not included in the application. The development would have an adverse visual impact in the views from Clanbrassil Street towards the Dublin mountains. The development does not accord with infill development policy Section 16.2.2.2 of the development plan which requires that new infill to respect the surrounding environment.
- The underground river, (River Poddle) crosses the site. There is history of serious flooding events. Flooding will affect the area further down towards

the city such as the site area until remedial work to address the problems at Tymon Park has been undertaken. Residents cannot obtain property insurance at present so new development should not be permitted in these circumstances.

- There are serious concerns about the impact of a development of the size and intensity proposed on traffic and parking. Not enough parking is provided within the development. The proposed development will have a serious impact on demands for on street parking in the area and will exacerbate existing problems of traffic congestion.
- There is an objective in the development plan for a Local Area Plan to be prepared for the area. Section 2.2.8.1. The proposed development is a large scale development of significance and should not be considered until an LAP has been prepared. The proposed development is premature until and unless such a local area plan is in place.
- The proposed development will be seriously injurious to the residential amenities and value of existing properties adjoining the site because of overbearing impact/ excessive height. The Section EE Drawing included with the appeal shows a height in excess of the development plan's 'Outer City' limit of sixteen metres. A building height of 16.55 metres rising to 18.43 at the parapet for the lift core measured from the garden levels at the Parnell Road properties which are in very close proximity to the blocks. Block 5 will overshadow and diminish the amenity of the gardens of these north facing properties. A building height of 15.19 rising to 17.06 metres at lift core parapet measured from the road level in Limekiln Avenue also exceeds the sixteen metre limit and overbearing impact on the properties due to proximity.
- There is a 1 metre to 4.5 metres setback of the four storey block from the boundary with properties on Limekiln Lane and Greenmount Lane where

there are single storey dwellings with courtyards. These properties will be overlooked from internal accommodation and balconies within the apartment block notwithstanding modifications proposed in the appeal. The front facades of Limekiln Avenue properties which have a parapet height of three metres will be overlooked from Block 7.

- The blocks are too close to the boundaries, are 4.5 times taller and 5.5 times taller than the two storey and single storey houses and will have an alley effect on Greenmount Lane. Balconies and windows will be too close to existing development. And the proposed modifications to balconies, screening and use of angled windows and which includes additional windows and balconies will not overcome and may exacerbate the situation. The stepping down and reductions would make no difference to overlooking and overshadowing.
- The proposed development is in material contravention of the Z6 zoning objective for the area at the western side of the site where it is a requirement that residential development be subsidiary to the employment and enterprise use.

7.0 Prescribed Bodies.

- 7.1. A submission was received by the Board from Irish Water on 6th February, 2017 in which it is confirmed that there is no objection to the development proposed but clearance to Irish Water Assets within the site must be agreed with Irish Water and connection agreements will be required.

8.0 Assessment

- 8.1. The issues considered central to the determination of the decision are within the Reasons for Refusal of Permission attached to the planning authority decision. Also included for consideration are a number of additional, material issues which were not included within the Reasons for Refusal of Permission most of which have been raised by in the submission of the Observer Parties. The issues are considered below under the following subcategories.

- Consistency with the zoning objectives.
- Strategic Planning – Local Area Plan.
- Visual Impact on Established Character and Pattern of Development in the Area
- Impact on amenities of adjoining properties.
- Qualitative and Quantitative standards.
- Traffic and Parking
- Flooding Risk
- Demolition of Existing Structures and Contamination of Land
- Appropriate Assessment.

8.2. Consistency with the zoning objectives

- 8.2.1. There is no objection in principle to the proposed residential use in redevelopment of the majority of the site, (circa 85 percent of site area) which comes within the area subject to the Z1 zoning objectives. The smaller area at the west of the site with frontage onto Greenmount Lane historically has been in industrial / commercial use. The unsuccessful proposal for rezoning of this area to Z1, (on the recommendation of the City Manager further to a proposal on behalf of the applicant in the course of the review of the Development plan which is outlined in the appeal has been noted. There are good planning arguments both for the retention of the area with the Z6 zone and for rezoning to the Z1 zone this part of the site is subject to the objectives for the Z6 zone. The application of the Z6 zoning objective (Enterprise and Employment) to this area is reasonable.
- 8.2.2. There is no justification for setting aside the ‘Z6’ objectives for enterprise and employment to facilitate residential development on the site. A residential element which is ‘open for consideration’ must be subsidiary to employment generating uses and must not in conflict with the primary Z6 objective to provide for the employment requirements. Location of a crèche on the ground floor of one of the apartment blocks which is essentially subsidiary to the residential development, within this part of the site within this area does not render the proposed development consistent with the objectives for an area within, “Z6” zoned lands.

- 8.2.3. It is also not accepted that precedent can be taken for favourable consideration of the proposed residential development within the area within the Z6 zoning from the prior unsuccessful application, determined over ten years ago in which there was no objection to residential use within the Z6 zone under P. A. Reg. Ref. 4261/05/PL29S 214671 within the planning reports. It is understood that some live work units were included in that application.
- 8.2.4. The Z6 zoning objective is considered reasonable and functional to the encouragement of a mix of employment and residential development in the same community.
- 8.2.5. There is no scope within development management that would allow for favourable consideration of the element of overall development that comes within the area of the Z6 zone. Furthermore, as these Z6 lands are not zoned for residential development residential units on these lands would not be included within the core strategy figures within the Housing Strategy incorporated within the Dublin City Development Plan, 2016-2022. It can also be anticipated that residential development on these lands would not be taken into account in a future Local Area Plan to be prepared for the area within period of the current development plan.
- 8.2.6. It can be concluded that the proposed residential development within the area of the Z6 zoning objective is considered to be in material contravention of the zoning objective for this part of the site.

8.3. Strategic Planning: Local Area Plan.

- 8.3.1. According to section 2.2.8.1 of the Dublin City Development Plan, 2016-2022 a Local Area Plan will be prepared during the lifetime of the plan, Harold's Cross which is one of the areas which will be subject to large scale development. Although delays to provision for housing supply is undesirable, it is considered that a Local Area Plan which provides for delivery of the core strategy for the city and a statutory, integrated sustainable planning framework involving public consultation to guide the development of the appeal site lands is essential. Such a plan would also provide for clarification and certainty as to the future land use of the area of the site within the Z6 zoning objective.

8.3.2. Given the site assembly, size and capacity and the scale and intensity of development proposal under consideration, it is considered that the proposed development is premature pending the availability of a local area plan. For example, the future development of the site can be guided in a Local Area Plan with regard to layout, building height and form, dwelling mix, Class 1 and Class 2 public open space, location for a crèche, recreational amenity, transport, permeability, connectivity, linkages, access points, internal road layout and services and facilities. It is noted that a Local Area Plan was not taken into consideration by the planning authority which applied the provisions of the then extant Dublin City Development Plan, 2011-2016 in its assessment of the application.

8.4. Visual Impact on Established Character and Pattern of Development in Environs.

8.4.1. The site as assembled can provide for a medium to high density development in principle, subject to the constraints of the surrounding environment, infrastructure and any other limitations of a technical nature.

8.4.2. The height of the blocks comes within the maximum height of sixteen metres permitted for Outer City Areas, exclusive of plant, flues and lift cores at roof level if appropriately screened and setback provided for in section 16.7.2 of the Dublin City Development Plan 2016-2022. The proposed development does not exceed the height limitations so the acceptability of the height in principle cannot be disputed. The acceptability of the height is a consideration with regard to impact on adjoining developments the surrounding environment including views from the public realm, and the impact on the amenities of the development itself.

8.4.3. The proposed development, with the exception of Blocks 1 and 2 along the Harold's Cross Road frontage in views on approach from Clanbrassil Street is to the rear of existing development, is somewhat peripheral in the views towards the Dublin Mountains and does not terminate vistas. The setbacks behind the terraced houses along Parnell Road is over fifty metres from the road frontage and over forty from the front building line of the properties on Parnell Road. The blocks would be relatively peripheral in the views along Parnell Road from west to east and east to the west.

The blocks owing their close proximity to each other may have some cumulative impact in terms of the combination of scale and height.

- 8.4.4. While the proposed development may contribute to some diminution of the quality of the views and the established character of the built environment it cannot be confirmed that the degree of negative impact warrants outright rejection of the proposed development. Further examination by way of a visual impact assessment including CGIs would be beneficial for assessment purposes, particularly in view of the proximity of the more sensitive Grand Canal Architectural Conservation area and a number of protected structures.
- 8.4.5. The development, as amended in the further information submission which provides for railings over a plinth wall provides for some enhancement of the street frontage presentation along Harold's Cross Road relative to the original proposal. The presentation of Blocks 5 and 6 onto Greenmount Lane behind railings on a plinth allowing for glimpses into the development between the blocks is an improvement relative to the existing scenario of the disused warehouse.

8.5. Impact on Amenities of adjoining properties.

- 8.5.1. Blocks 1, 2, 3 and 4 are not in close proximity to any existing residential properties. It is considered that no issues with regard to impact on properties adjoining the site. In the event of redevelopment to residential use at the office complex adjacent to Blocks 2, and 3, sufficient distances from the boundaries and design and an appropriate layout which does not undermine the development potential of the adjoining lands has been achieved.
- 8.5.2. Block 5 which is in close proximity to the boundaries of the rear gardens of properties on Parnell Road. The objections as to overbearing impact, obstruction of sunlight and overlooking have been noted. However, it is considered that a satisfactory balance has been achieved that ensures that residential amenity is not unduly diminished at the Parnell Road properties. That the height, notwithstanding the variation between the garden levels and that of the block, the ten metre height the ground, first and second floors and shallow slope to the setback fourth floor and thirty metre distance to the rear wall of the houses the setback to the third floor provides for a satisfactory balance is reasonable. Potential for overlooking can be

addressed by appropriate screening for the balconies and appropriate design mitigation, as submitted in the appeal for the and west facing fenestration.

- 8.5.3. Block 6 has frontage and an entrance onto Greenmount Lane and an opening on the street from an area defined as “resource” on the lodged plans. The ground floor crèche which is also to accommodate a Montessori school according to the lodged plans is considerable in size and capacity at circa 50-60 children and eight staff. The floor plans indicate an external crèche play adjoining the north elevation and the site layout shows a larger play area to the east side within the public open space. Details of boundaries for this play area are not shown and it is unclear as to whether it is an area to be confined to the use in connection with the crèche or whether it is to be a play facility within the public open space serving the development.
- 8.5.4. It is considered that the proposed crèche, (irrespective of whether it is located at Block No 5 or Block No 6) and associated outdoor spaces due to their location relative to proposed and existing residential development are potentially seriously injurious to the residential amenities and value of properties on Greenmount and Limekiln Lane owing to the scale and intensity of the crèche/Montessori facility and the proximity of the small confined single storey dwellings. A drop off /collection space for three cars would appear to be seriously deficient. It is considered that Greenmount Lane which serves existing residential development and access between Parnell Road and Greenmount Avenue is deficient in width to accept additional traffic, drop offs / collections and also deliveries, refuse etc. The proposed development is gated and therefore heavily reliant on Greenmount for vehicular access that cannot come through the development from Harold’s Cross Road.
- 8.5.5. The orientation of Block No 7 is at a sufficient separation distance from the cottage properties on Limekiln Lane and the site to the south in conjunction with the ameliorative design measures for fenestration and balcony positions and screening to ensure a satisfactory standard of residential amenity at Limekiln Lane at the adjoining site on Greenmount Lane in the event of possible future residential development.
- 8.5.6. In summary, the crèche is the primary concern regarding negative impact on residential amenities of adjoining properties both in terms of the intensity, use of

external areas and disturbance by traffic on Limekiln Lane for drop offs and collections. The separation distances between dwelling footprints, the configurations of adjoining sites and the ameliorative measures incorporated in the block designs provide for maintenance of satisfactory standards of amenity on completion of the development.

8.6. Qualitative and Quantitative standards.

8.6.1. Sustainable Residential Communities.

8.6.2. The size of the development proposal and site area is such that a significant new residential community is to be introduced into an established inner urban neighbourhood amounting to over one hundred and twenty dwellings and a population of circa four hundred persons which is considerably higher than that of the existing development of circa fifty to fifty-five dwelling units in total. The development which is to be gated, the applicant in the appeal having confirmed in the appeal that agreement to reconsider this proposal would not be forthcoming, would contribute to isolation from the wider neighbourhood. The development is almost entirely made up of two bed apartment units and therefore lacks dwelling mix and scope for encouragement of variety in household formation. While this restriction to two bed units may be responsive to market conditions, it is unacceptable. Provision for circa twenty percent three bed units especially in view of the recommendations in the most recent statutory guidelines: *Sustainable Designs for New Apartments: Guidelines for Planning Authorities: 2015* (Sustainable Urban Housing – 2015) should be required and provision can be made for one bed/studio units.

8.6.3. Public and communal open space provision.

The public/communal open space provision within the site layout lacks a hierarchy, is somewhat piecemeal and concentrated along the site boundaries. and there is a lack of central, primary, 'Grade 1" space of significant size and amenity potential with and good visual and connectivity and accessibility from the residential units. The quantity, as acknowledged in the appeal is insufficient but it is considered that the

proposed financial contribution in lieu of on-site provision is not acceptable. The quality of the development and relationship to immediate environs is such that there is not sufficient alternative provision within the vicinity other than the Grand Canal.

8.6.4. A satisfactory standard of public and communal open space provision available to the future residents of the development would not be achieved. This is unacceptable would fails to facilitate creation of a sustainable residential scheme of over four hundred people within an existing neighbourhood. As has been pointed out in the report of the roads and transportation department and planning officer report, the layout of the development and open space within it militates against permeability, linkage and connectivity both in a north south and east west direction for cyclists and pedestrians which is exacerbated by the proposals for control access at the entrances including the pedestrian entrance to the west side of the site. It is concluded that the proposed public open space provision is deficient both in quality and in quantity having regard to the foregoing. The concerns about these issues could be addressed in an appropriate Local Area Plan, potentially incorporating a framework layout for the site.

8.6.5. Amenities and standards of dwelling units.

The floor areas and room sizes for the apartments satisfy the minimum standards provided for in the development plan and in statutory guidance: (*Sustainable Urban Housing. 2015*). Some units have good quality internal layouts whereas some others are confined to a north facing single aspect and are affected by the close proximity of adjacent blocks. A two sided balcony, which may require screening is provided for some of these units. This is particularly the case for north facing units at the first floor level in Block 6 facing towards Block No 5 but the single aspect units facing towards each other in both of these blocks would be affected by overbearing impact and perceptions of reciprocal overlooking of internal accommodation and balconies. Single aspect units are not unacceptable it being noted that up to fifty per cent of units, ideally south facing may be permissible subject to a satisfactorily level of amenity value through access to daylight and sunlight and visual linkage to outdoor amenity being demonstrated.

8.6.6. It can be concluded, that the proposed development lacks capacity for development within a sustainable residential community within the neighbourhood, owing to the gated nature of the development, lack of linkage and connectivity, substandard quantity and quality of open space provision, lack of dwelling mix that would contribute to variation in household formation and limitations to the potential attainable standard of residential amenity at some units due to single aspect orientation towards the north, proximity to and overbearing impact from adjoining blocks, deficient public and communal open space provision in quantity and quality, and potential noise disturbance at some units due to proximity to the crèche external space.

8.7. **Traffic and parking.**

8.7.1. The assumption as to fifty per cent of the enrolment at the crèche being generated within the development is considered to be a little conservative and it is also noted that the facility has considerable capacity. Otherwise, the trip generation and network assignment is considered reasonable and appropriate. The concerns of the objector parties as to significant impact on traffic flow, convenience and public safety is noted. It is agreed that the use of Greenmount Lane for drop-offs and pick-ups at the crèche, is undesirable, given that additional traffic movements along it are

undesirable and may lead to obstruction and hazard to pedestrian and vehicular traffic particularly on account of the narrow alignment of the lane, additional turning movements at the junction with Parnell Road and number of existing residential units. I note that the Roads and Traffic Division shares these concerns about the drop off and collection arrangements. It may be advisable for these facilities to be provided within the development as opposed to the existing adjoining public road network.

8.7.2. The total on-site parking provision at 134 spaces falls short of the 1.5 spaces per residential unit (and additional requirements for the crèche) required for areas within Zone 3 according to the development plan. The Roads and Traffic Department's acceptance of this total provision, subject to direct allocation of one unit per dwelling is noted and considered reasonable notwithstanding concerns of some observer parties as to the deficiency.

8.7.3. There is no objection to the proposed access off Harold's Cross which is the existing access. Some further clarification may be required for the achievement of sight line and rights of access over third party lands.

8.7.4. The existing development is gated and the proposed gated nature of the development which has been confirmed in the appeal would be regrettable in that it would militate against the community benefits of convenience for local pedestrians and cyclists of linkage, connectivity and integration into the established neighbourhood. It is noted that the applicant has also confirmed that a lockable gate will be located at the pedestrian entrance on the western frontage. The contention in the appeal that this arrangement is immaterial to the amenity and utility of east west linkage and connectivity across the site is not accepted.

8.8. **Flooding.**

8.8.1. The submitted site specific flood risk assessment report in which the majority of the site area is confirmed as being within Flood Zone C has been reviewed and the predicted protection for up to a 100-year flood return, within corporation of design mitigation has been noted.

8.8.2. It is recommended that a notification be issued to the OPW, in the event of possible favourable consideration of the proposed development noting the serious concerns

expressed in the observations regarding the flooding history and flooding risk in the area and remedial works planned but not yet undertaken at Tymon Park within the area and requesting comments and recommendations.

8.9. Demolition of Existing Structures and Contamination of Lands.

- 8.9.1. There is no objection in principle to the proposed demolition and replacement of the existing 1990s constructed scheme, (Harold Bridge Court) with a new residential scheme in a higher density subject to satisfactory qualitative standards.
- 8.9.2. It has been suggested that the disused warehouse was formerly an oil refinery and it appears to date from the early/mid twentieth century. On the basis of external inspection, it would appear that it may have had a former use of an industrial nature that could have led to contamination of the ground. In order to eliminate any potential risk to future development it is recommended, that a condition be attached for investigative works to be undertaken, in the event that permission is granted. Such a condition should include a requirement for a site investigation to include soil testing and analysis with a written report including recommendations for ameliorative works, (if any are required) to be undertaken and prepared by a competent person. In addition, the existing structure should be surveyed so that it can be confirmed in the event of the presence of asbestos or other hazardous materials, that appropriate demolition and site clearance measures are put in place. This can be addressed in a demolition plan and compliance with a corresponding condition.
- 8.9.3. The existing dwellings at Clare Villas appear to date from the eighteenth century, to be of architectural heritage merit and to be structurally stable and habitable. There is no evidence within the application of an architectural heritage assessment having been undertaken which would facilitate establishment of the merits or otherwise of the proposed demolition of these structures to facilitate the proposed development. While it is acknowledged that these dwellings are not included on the record of protected structure the views of the conservation officer or architects' department would also have been welcome.

8.10. Appropriate Assessment.

The application is accompanied by a report prepared by Scott Cawley which has been consulted in order to conduct appropriate assessment screening on the proposed development project.

- 8.10.1. The application site is within the outer central city area is a fully serviced site and is occupied by residential development and a warehouse formerly occupied by Eircom. There is some soft landscaping in the form of amenity and garden space along with trees with the remainder of the space being taken up by roads, car parking and ancillary space and there are no watercourses on or adjacent to the site boundaries. (The Grand Canal is a short distance to the north.)
- 8.10.2. The site location is not within any European Sites. The South Dublin Bay Special Area of Conservation [Site 0210] is circa three kilometres and the conservation interest is *tidal mudflats and sandflats*. They have unfavourable conservation status but there is likely to trend towards improvement to the habitat condition.
- 8.10.3. The South Dublin Bay and River Tolka Estuary Special Protection Area (4024) is circa four km from the site and the qualifying interests are several wintering, breeding and wetland and bird species of special conservation interest.

The North Dublin Bay Special Area of Conservation (site 0206) is circa four kilometres from the site location

The qualifying interests are:

Mudflats and Sandflats, [1140]
Annual Vegetation drift lines [1210]
Salicornia and other annuals colonizing mud and sand [1310]
Atlantic salt meadows [1330]
Petalwort [1395]
Mediterranean salt meadows [1410]
Embryonic shifting dunes [2110]
Shifting white dunes [2120]
Fixed grey dunes [2310]
Humid dune slacks [2190]

8.10.4. These habitats have unfavourable conservation status. The threats include pollution, agricultural and recreational activities, invasive species and land reclamation and defences.

8.10.5. Waters in Dublin Bay are classified as unpolluted and pollutants will be decreased in the longer term with the inclusion of SUDS systems for storm drainage in new development and upgrades to the Ringsend WWTW that will reduce pressure on habitats and species in the Bay.

8.10.6. Several other European sites come within fifteen kilometres distance from the appeal site and they are listed and along with the conservation objectives and possible source-pathway-receptor links in the screening report provided by the applicant.

8.10.7. The proposed development of 121 apartments and a crèche provides for 486 pe and effluent is to discharge to the existing foul sewer in Greenmount Lane for transfer to the WWTW in Ringsend and discharge to Dublin Bay. The potential source-pathways-receptor linkage is surface and foul water drainage between the site of the proposed and the European sites. There is a risk of contamination of surface water draining to the network from constructed related activities.

Wastewater is to be discharged through the public system to Ringsend Treatment Plant for treatment and disposal. The impact on the loading on which or consequent nutrients in receiving waters would be negligible and it is of note that former problems of overloading of the system have been overcome and that the coastal waters have been classed by the Environmental Protection Agency as unpolluted.

8.10.8. At construction stage surface water runoff occurring at any significant rate would contain imperceptible contaminants and would occur for short periods only. Sustainable Urban Drainage Systems (SUDS) which will minimise run off have been incorporated in the development.

8.10.9. There is no risk to the European sites in close proximity or to any other European site due to the proposed development of the proposed development at construction and operational stages.

8.10.10. Having regard to the nature and scale of the proposed development and the characteristics of the Special Protection Areas and Special Areas of Conservation located within 15 kilometres distance of the site and to the Appropriate Assessment Screening report a screening determination can be reached. It is reasonable to conclude on the basis of the information available that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on the South Dublin Bay Special Area of Conservation [Site 0210], the South Dublin Bay and River Tolka Estuary Special Protection Area (4024), the North Dublin Bay Special Area of Conservation (site 0206) or any other European site in view of the conservation objectives. A Stage 2 Appropriate Assessment is therefore not required.

9.0 Recommendation

9.1. Given the foregoing, it is recommended that the planning authority decision to refuse permission be upheld and the appeal rejected. Additional reasoning, not included within the reasons attached the planning authority decision has been included which addresses issues raised by third parties and addressed in the first party appeal is also included under '3' and '4' in the Draft Reasons and Considerations set out below:

10.0 Reasons and Considerations

1. Part of the site comes within an area subject to the zoning objective: Z6: *To provide for the creation and protection of enterprise and to facilitate opportunities for employment creation* according to the Dublin City Development Plan, 2016-2022. It is the policy of the planning authority that possible residential development within lands subject to the Z6 zoning objective must be subsidiary to the employment generating land use and not

conflict with the primary objective providing for employment requirements of the city. It is considered that the proposed residential development would eliminate the potential for the achievement of this primary objective, would set precedent for further similarly development at other locations subject to a similar zoning objective and would therefore materially contravene this development objective and would be contrary to the proper planning and sustainable development of the area.

- 2 The proposed development would constitute substandard overdevelopment of the site by reason of lack of diversity in dwelling mix providing for variation in household formation, deficiencies in quantity, layout, quality and amenity potential of public open space provision, and lack of permeability and visual connectivity within the development and, connectivity, linkage across the development and with the established neighbourhood, excessive proximity between some of the blocks resulting in reciprocal overbearing impact, poor access to sunlight and daylight at some units, especially those at lower levels with a single north facing aspect and proximity of some units to the external play areas for the crèche, As a result the proposed development would fail to satisfy the recommendations and minimum standards in “*Sustainable Designs for New Apartments: Guidelines for Planning Authorities*” issued by the Department of the Environment, Community and Local Government in 2015 and *the Dublin City Development Plan, 2016-2022*, would set precedent for further similar development and would be contrary to the proper planning and sustainable development of the area.
3. The proposed development would be premature pending the availability of the Local Area Plan for Harold’s Cross the completion of which, during the lifetime of the Dublin City Development Plan, 2016-2022 is a specific objective of the said plan.
4. The proposed use of designated spaces on Greenmount Lane which has a maximum carriageway width of six metres, serves existing residential

development on Greenmount Lane and Limekiln Lane and industrial development on Greenmount Avenue as a route for traffic between Parnell Road and Harold's Cross Road as the sole a drop off and collection point for the crèche within the development would result in additional turning movements at the junctions with the Regional routes and obstruction of the safe and free flow of vehicular traffic and pedestrian circulation. As a result, the proposed development which would endanger public safety by reason of traffic hazard, in the absence of an alternate means of vehicular access to the crèche for traffic originating outside the site of the development.

Jane Dennehy
Senior Planning Inspector
16th February, 2017.