



An  
Bord  
Pleanála

## Inspector's Report ABP-301600-18

### Development

#### PROTECTED STRUCTURE:

Demolition of existing structures No's 115-119 Harold's Cross Road Dublin 6 and construction of two apartment blocks and integration into adjoining residential development.

### Location

Former St. Clare's Convent and No.'s 115-119, Harolds Cross Road, Harolds Cross, Dublin 6

### Planning Authority

Dublin City Council South

### Planning Authority Reg. Ref.

3781/17

### Applicant(s)

Kavacre St Clares Ltd.

### Type of Application

Permission.

### Planning Authority Decision

Grant

### Type of Appeal

Third Party

### Appellant(s)

Christine Kirwan and Paul Walsh.

### Observer(s)

Harold's Cross Village and Community Council.

**Date of Site Inspection**

29<sup>th</sup> of August 2018

**Inspector**

Karen Hamilton

## 1.0 Site Location and Description

- 1.1. The subject site includes 3 no. 2 storey buildings which front directly onto Harolds Cross and forms part of an overall development for the demolition of part of St Clare's convent for apartment development (Blocks A-G), Harolds Cross, Dublin 6.
- 1.2. The buildings on site are derelict and the rear space, which links to the St Clare's convent site and the open space associated with Block G, is overgrown. A 3 storey apartment block is located to the north of the site with the main entrance into St Clare's Convent north of these apartments, Parkview Mansions.
- 1.3. The entrance into an adjoining residential estate, Leinster Park, is located to the south of the site. A 2m high block wall runs along the south of the site, adjoining this residential estate and there are mature trees within the open space adjoining the wall. There is a row of two storey dwellings along the south of the site in Leinster Park.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
  - Demolition of 3 existing structures No's 115, No 117 & 119 Harold's Cross Road ( 793m<sup>2</sup>) and all associated structures to rear;
  - Construction of two apartment blocks:
    - Block J1 - 1 no. part 4 no. Storey / part 5 storey apartment block fronting Harold's Cross Road
    - Block J2- 1 No. 4 No. storey apartment block to the rear comprising of 23 no. residential units in total ( 10 no. 1 bed units 13 no. 2 bed units)
  - Provision of balconies & open space comprising of c.5.10 m<sup>2</sup>.
  - Pedestrian access to be provided off Harold's Cross Road:
  - Extension to the basement level from the granted development to the east at Block G to provide for access from the proposed Block J2:

- Provision of 160 No. car parking spaces and 226 no. bicycle parking spaces at basement level:
- All necessary site works and site services works:
- The proposed development will result in an overall increase in units from 156 no. to 179 no. units.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Decision to grant permission subject to 20 no. conditions of which the following are of note:

C 3 & 4- Compliance with the drainage and roads conditions of PL29S.245164 (Ref Ref 2825/17).

C 14- Archaeological Monitoring

C16- Prior to development the details of a pedestrian gate and boundary treatment to be submitted for apartment 3 (Block J1).

C 19- Prior to commencement the applicant shall submit a map delineating the areas which are to be taken in charge. All other areas to be maintained by a management company.

C 20- Part V compliance.

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

##### **3.2.1. Planning Reports**

The report of the area planner reflects the decision to grant permission following the submission of further information on the following:

- Submission of a car parking strategy for the site which provided clarity in relation to the overall quantum of car parking spaces and the parking provision of 0.7 spaces per residential unit.

- Information on the density and compliance with the national guidelines and concern raised in relation to the amenity value of the ground floor units facing onto Harold's Cross Road.

In addition to the above the planner referred to the policies of the development plan, Condition No 3 of a previous permission Reg Ref No 2186/15 regarding the omission of Block J, the national guidelines and the open space provisions on the site.

The planner noted the location of the site within an archaeological zone and also refers to a Conservation Report submitted with a previous planning application which states that the removal of buildings along Harold's Cross will not represent a loss of historic fabric.

The impact on the residential amenity and the surrounding area was assessed in addition to the differences in the previously submitted Block J and the newly submitted Block J and it was considered that the amended design was significantly different.

#### 3.2.2. Other Technical Reports

Conservation Officer- Recommend Refusal.

Roads & Traffic Division- No objection subject to conditions.

Drainage Department- No objection subject to conditions.

Waste Management Division- No objection subject to conditions.

#### 3.3. Prescribed Bodies

None received.

#### 3.4. Third Party Observations

11 no. third party observations were received from residents in the vicinity of the site, including the appellant, and the issues raised in addition to the grounds of appeal are summarised below:

- Unauthorised removal of trees in the site and along the boundaries.
- Adequate security should be provided on the site on completion of the development.

- The depth of excavation and the volume of construction traffic will have a negative impact on the surrounding area.
- The development should not encroach onto adjoining lands.
- All compliance with waste management etc. should be complied with.
- The balconies will cause overlooking and overshadowing onto the adjoining Parkview apartments and dwellings within Leinster Park.
- The heights, 4 & 5, are much higher than the surrounding area.
- The proposed development would have a negative impact on the character of the surrounding area.
- The proposed development would depreciate the value of properties in the vicinity.
- A historic streetscape will be removed and change the character of Harold's Cross.
- The development is out of proportion to the surrounding area.
- There is an overprovision of one bedroom apartments within the development.
- The proposal does not comply with the infill policy in the development plan.
- The proposed development in addition to other proposals on the site would warrant the provision of a childcare facility.
- There is not sufficient car parking within the site to accommodate a minimum of 1 space per apartment.

## 4.0 Planning History

### **ABP 301835-18 (Reg Ref 4040/17)**

Permission currently with the Board for amendments to Reg Ref 2825/17 and Reg Ref 2186/15 to provide for an increase from 4 storeys (13m) to 5 storeys (16m) on Blocks E, F and G. Two units will be omitted to facilitate a crèche development and thirty new residential developments in Block G. Reconfiguration of car parking spaces, elevation changes, and increase in the total number of units from 156 to 220.

### **Reg Ref 4544/17**

Permission granted for amendments to Reg. Ref: 2186/15 (PL29S.245164) amendments to Block D1 to consist of the replacement of previously proposed office area (conditioned for community use under Condition 4 of An Bord Pleanála Ref: PL 29S.245164) and 3 no. previously permitted residential units (1 no. 1 bed, 1 no. 1 bed plus study and 1 no. 2 bed) in Block D1 with resident's amenity facilities comprising of: a concierge, residents lounge, multi-function room, meeting room and co-working spaces, gym with revised terrace at lower ground floor on northern elevation and associated facilities; manager's office; and all associated works (total tenant amenities floor space provided is c.396sqm). Minor elevation amendments are also proposed as part of this application. This application will reduce the number of units in Block D from 13 no. to 10 no. resulting in an overall decrease from 156 no. to 153 no. residential units.

### **ABP 301716-18 ( Reg Ref 4040/17)**

Leave to appeal refused as the conditions set out in the planning authority's decision did not materially alter the development as set out in the application for permission.

### **ABP- 300031-17 (Reg Ref 2825/17)**

Permission granted to modifications of a previously permitted development PL29S.245164 (Reg Ref 2186/15) for an increase in units and reconfiguration an elevation amendments at Blocks E, F and G and reconfiguration of basement car park providing for increase in parking spaces and associated site works.

Condition No 1 required compliance with Condition No 4 of the parent permission Reg Ref 2186/85 (PL29S.245164) and "community related purpose".

### **Reg Ref 2826/17**

Permission granted for replacement of three residential units with residential amenity facility including concierge, residents lounge, multi- function room, meeting room, co working space, gym and associated facilities. Block D would be reduced to 10 units instead of 13 and the overall units within the development would decrease from 156 to 153. Appeal PL248916 was withdrawn.

## **PL29S.245164 (Reg Ref 2186/15)**

Permission granted for 156 apartments in six blocks (Block A-G). Block C includes the change of use of the former Bethany Orphanage to 6 residential units. Block D comprises a change of use of convent to 13 units. The nun's chapel is to be converted to and residential building and the main chapel and office. A basement carpark includes 155 car parking spaces.

Condition No 2- Block H shall be omitted and replaced with a proposal for a revise area of public open space.

Condition No 3- Block J shall be omitted and any redevelopment shall be the subject of a separate planning application.

Condition No 4- The proposed mezzanine in the chapel omitted and the chapel used for community related purpose and not office.

Condition No 9 All trees to be retained within the site unless specifically authorised by the planning application.

## **5.0 Policy Context**

5.1. Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018).

Circular 11/2016 Department of Housing, Planning, Community and Local Government which makes the provision for Build to Rent (B2R).

- Provides for on site amenities to support apartment developments.

5.2. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).

5.3. Urban Design Manual, A Best Practice (DOEHLG, 2009)

5.4. Childcare Facilities, Guidelines for Planning Authorities (2001)

- Requirement for one childcare facility providing for a minimum 20 childcare places per approximately 75 dwellings.



## 5.5. Dublin City Development Plan 2016-2022

The subject site is located on lands zoned Z1, (Sustainable Residential Neighbourhoods) and the parent permission also includes Z12, Institutional Lands (Future Development Potential).

Z1 objective "To protect, provide and improve residential amenities".

- Section 16.5 Plot ratio 0.5-2.0
- Section 16.6 Site Coverage 45% - 60%

Z12 objective "To ensure existing environmental amenities are protected in the predominantly residential future use of these lands".

- A minimum of 20% will be required to be retained as accessible public open space.
- Development in the vicinity of the site will have regard to development standards
- 10% social and affordable required
- Section 16.5 Plot ratio 0.5-2.5
- Section 16.6 Site Coverage 50%

### Building Height

**Section 16.7.2** - Up to 16m for residential in Outer City.

Additional assessment criteria for higher buildings is included.

### Apartment Development

**Section 16.10.1** – Standards for Residential Accommodation.

Mix of sizes

- Max 25-30% one bedroom
- Min 15% three bedroom
- B2R 42-50% can be one bedroom (long term managed schemes)

Public open space

- 10% residential

- 20% for the institutional lands.

### Section 16.10 Residential development

#### **Section 16.10.10-** Standard for residential development

Regard should be given to the existing character of the street, proportion heights, materials etc.

#### Urban Design

**Policy SC13:** To promote sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city, which are appropriate to their context, and which are supported by a full range of community infrastructure such as schools, shops and recreational areas, having regard to the safeguarding criteria set out in Chapter 16 (development standards), including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture. These sustainable densities will include due consideration for the protection of surrounding residents, households and communities.

#### Built Heritage and Culture

**Policy CHC1:** To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

## 5.6. **Natural Heritage Designations**

The site is located c. 4km to the west of South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The grounds of appeal are submitted from the residents of a property along the south of the site and the issues raised have been summarised under the headings below:

### Residential Amenity

- Block J2 is located 1.65m from the rear of appellant's property and will impact on the occupant's privacy.
- The plans submitted illustrate Block J2 10m from No 7 Leinster Park although this does not take into consideration the rear extension.
- The daylight and sunlight drawings used outdated drawings for No 7 and therefore are inaccurate.
- The planner only justified the demolition of the building to accommodate J1 and not the impact of J2 on the surrounding area.
- The impact on Parkview Mansions was referenced in the planners report and not Leinster Park.
- There is no assessment of the submitted photomontages and there are none submitted from Leinster Park.

### Construction

- Vibration from the construction of the basement car parking will impact on the adjoining property.

### Excessive Development

- There is a lack of rationale for the particular design and layout proposed and a smaller scale of one block fronting onto Harold's Cross should have been used.
- The principles of proper planning have been ignored for additional housing.
- The density is excessive and requires reduction. The proposed development increase the density on the site from 92 units to 105 units per hectare which is materially different. The additional revisions proposed in a concurrent application 4040/17 will result in 129 dwellings per hectare.
- The site is not a brownfield site, it is partially undeveloped.
- The Z12 zoning requires a cautious approach.
- The site is over 1km from Griffith College, not 500m as suggested by the applicants (maps submitted illustrating surrounding landmark locations).

## Conservation

- The demolition of the existing buildings is not justified and the planner did not explain the reasons for ignoring the Conservation Officers recommendation.
- The planners report should include a justification on the removal of structures No 117- 119.

## Other

- There was a lack of consultation with the appellants.
- There was a lack of proper assessment by the council and no specific detail on the observations submitted.

## 6.2. **Applicant Response**

An agent on behalf of the applicant has submitted a response to the third party appeal which may be summarised below:

- The decision by the planning authority and information in the planners report, supports the proposal and adequate justification is provided to address Condition No 3 of the parent permission.
- In response to the 3<sup>rd</sup> party appeal, the design of J2 has been revised should the Board consider to amend it. The revised design includes a greater set back from the southern boundary with Leinster Park.
- The proposed amendments include the reduction of the footprint on the ground floor by c. 0.5m which would increase the set back of the ground floor from 1.6m to 2.2m at the nearest point. The first floor has been reduced by an additional c. 2.1m which increases the set back from 1.6m to 3.8m. Therefore the proposed Block J2 will be located c. 3.8m from the boundary of No 7 Leinster Park and c. 7.7m from the rear extension.
- In addition, the proposed window opening was revised to high level opaque glazing along the southern elevation to prevent any overlooking.
- A revised daylight/ sunlight assessment indicates the proposed development will not have a negative impact on the existing residential dwelling. Levels of

daylight will be reduced at No 7 Leinster Park but will remain above the BRE Guidelines.

- A revised landscape plan provides for appropriate tree planting along the boundary to screen the development along the boundary with Leinster Park. A landscape specification accompanied the applicant's response.
- The plans have been updated and reflect the correct layout as raised in the grounds of appeal.
- The removal of the trees was permitted in the parent permission and the reinstatement of trees will be provided during a typical planting season.
- It is noted that the report of the planning authority referred to the 3<sup>rd</sup> party submissions.
- Having regard to the recent government guidance, the National Planning Framework (NPF) and the new Apartment Guidelines the density is appropriate to the location in the City Centre and along the public transport corridor.
- The NPF refers to higher densities, urban consolidation, infill development etc. and the proposed scheme supports this plan.
- The Sustainable Residential Guidelines state that there should be no upper limit on the number of dwellings subject to compliance with polices and standards of public and private open space.
- The overall development provides for a plot ratio of 1.1 and a site coverage of 33.75% which complies with the standards of the development plan.
- The density standards are a minimum of 50 dwellings per hectare.

### 6.3. Planning Authority Response

A response from the planning authority refers to the information contained in the planners report which it considers deals fully with the issues and justifies its decision.

#### 6.4. Observations

One observation was received from a Residential Association, representing a number of areas in the vicinity of the site and the issues raised are summarised below:

- Support is given to the third party appeal and some issues are raised again.
- The new guidelines for apartment developments are acknowledged and the reference to the national best practice design remains.
- Consideration need to be given to the new design and the impact on the adjoining properties.
- The location and inclusion of windows will have an overbearing impact on No 7 Leinster Park and other properties.
- An illustration of the windows along the gable elevation facing onto No 7 and balconies orientated towards other properties in Leinster Park, are included in the submission.

#### 6.5. Further Responses

6.5.1. A response from the appellant to the applicant's submission was received and the issues raised are summarised below:

- The concerns raised in the 3<sup>rd</sup> party appeal in relation to overlooking, overshadowing and loss of privacy have not been addressed.
- The small increase in separation distance will have no impact on the overall scale and design of J2.
- The use of opaque glazing will have no impact should the windows be open.
- The balconies along the east elevation will also result in oblique views.
- The amended sunlight and daylight analysis shows a decrease in the available light by 20%.
- No analysis was undertaken in relation to the basement, therefore it is assumed that this impact is worse.

- Having regard to the absence of compliance with previous conditions and planting, there is no confidence in the undertaking of any landscape proposals.
- No detail is provided as to the “medium growing trees”.
- The national guidance provided does not include and reference to having a negative impact on the existing residential amenity.
- Previous concerns from a previous submission are reiterated.

6.5.2. A response from the applicant to the appellants further response was received and the issues raised are summarised below:

- It is considered the submitted alterations to Block J2 address the initial concerns of the appellant and mitigate against the impact of the proposed development.
- Additional architectural drawings are submitted clarifying the separation distance between the properties and set back of J2.
- A further landscape plan has been submitted to further detail the proposed boundary treatment.
- A revised daylight/ sunlight analysis has been prepared to demonstrate that the proposed Block J2 does not significantly impact the appellant’s property.
- CGI images have been prepared to illustrate the relationship of the proposed development on the appellant’s property.
- All submitted plans and illustrations are confirmed as correct.
- The altered design will mitigate against any negative impact.
- Information in relation to the location of site, compliance with the landscape plan is submitted as part of first appeal response.
- The density is supported by the national policy guidance and the NPF and The Draft Guidelines for Urban Development and Building Heights 2018 which support the move away from the two storey cul-de-sac dominated approach.

6.5.3. A response from the appellant to the further response was submitted by the applicant is summarised below:

- The landscape plans remain misleading as two separate plans are lodged, one with the An Bord Pleanála and one with the planning authority.
- The applicant did not comply with conditions in relation to previous landscape requirements and was subject to enforcement action.
- The daylight and sunlight analysis fail to take into account the main living space to the rear of the house (5% requirement), the basement work space and the large screen erected along the boundary as part of the landscape plan.
- Reference to the separation distance of c. 7.7m is incorrect and measures the distance from the first floor and not the ground floor extension.
- The photomontages submitted with the response include a summer view i.e. deciduous and do not account for the winter view.
- The tree planting proposal will not provide any substantive screening.

## 7.0 **Assessment**

7.1. The following assessment has regard to the revised plans submitted with the applicant's response to the grounds of appeal which included alterations to Block J2 including a reduction in the size of the ground floor, set back increase from c. 2m to c. 3m on the upper floors to provide an increase in c. 3m giving a the separation distance of c. 8m from the first floor of No 7 Leinster Park, the submission of revised landscaping plans and the submission of update sunlight and daylight analysis taking account of the new amended design. No amendments were proposed to Block J1, along the front of the site facing onto Harolds Cross Road. The revised design was circulated to interested parties and observations on the amendments were received from the appellant. The main issues of the appeal can be dealt with under the following headings:

- Planning History
- Design, Layout and Built Heritage
- Impact on Residential Amenity
- Childcare Facility



- Archaeology
- Traffic and Access
- Appropriate Assessment
- Environmental Impact Assessment

### **Planning History**

- 7.2. The subject site includes 3 no derelict buildings, No 115-119, which front onto Harold's Cross Road which forms part of an overall apartment development, previously granted PL29S.245164 ( Reg Ref 2186/15) for the demolition of part of St Clares Convent and construction of 156 apartments in six blocks (Block A-G) included amenity facilities. No 115- 119 was located in the area for a proposed Block J which included a four storey apartment block extending from the footpath along the east c. 50m along the south west of the site. Condition No 3 required "*Block J shall be omitted. Any alternative proposals in respect of this area of the site shall be the subject of a separate planning application. The existing buildings no 115-119 Harold's Cross Road shall not be demolished unless and until planning permission for the redevelopment of this portion of the site has been obtained. Reason: In order to preserve the character of the streetscape of Harold's Cross Road and to prevent an undesirable precedent*".
- 7.3. Subsequent applications have been permitted for alterations to the parent permission including Reg Ref 2825/17, 4544/17 and ABP 30031-17 (Reg Ref 2825/17) and the existing permitted development on the site is currently for 156 no. apartment units. In addition to the proposed development a concurrent application is with the Board ABP 301835-18 for an additional 67 units, therefore there is the potential for a total of 220 units on the site.
- 7.4. The proposal comprises of 23 no. apartments in 2 no. blocks along the south west of the site and differs from the original Block J in so far as the proposed development includes two blocks (J1 & J2) where Block J1 includes a four/ five storey frontage facing directly along Harold's Cross Road and Block J2 includes a four storey block at the rear of the site. I note the application differs from the original permission and whilst the proposal includes the demolition of the buildings along Harold's Cross I

note Condition No 3 does not specifically restrict the demolition rather it requires the submission and permission of an acceptable proposal.

- 7.5. Therefore, having regard to the planning history on the site, subject to complying with other planning requirements as addressed in the following sections, the principle of the proposal is acceptable.

### **Design, Layout and Built Heritage**

- 7.6. The proposed development includes the demolition of three buildings and construction of two separate apartment blocks, J1 & J2. The existing buildings which front onto Harold's Cross are on the opposite side of the road from an area of open space associated with the village. The grounds of appeal raise concern on the impact of the proposal on the character of the area. The site is not located within a conservation area and whilst there are protected structures on the overall site, the chapel and convent building, retained as part of the parent permission (PL29S.245164), No 115-119 are not protected. I consider the impact of the proposed development relates to two aspects, in the first instance the removal of the existing streetscape and the second the impact of the apartments on the surrounding area, as detailed below.

#### Demolition of No115-119 Harold's Cross

- 7.7. The conversion and alteration of the two protected structures on the site, St Clare Convent and the chapel are permitted as part of the parent permission (PL29S.245164) and will not be altered as part of this proposal. The report of the Inspector referenced the Planning Authorities initial reason for a split decision and refusal of Block J and acknowledged that whilst the existing structures, No 115-119 Harold's Cross Road, are not of any significant architectural or historic interest such as would warrant their retention it was considered their scale and the traditional / narrow grain provided positive contribution to the character of this part of Harold's Cross. In addition, the Board Direction referred to sharing the concerns of the Inspector with regard Block J and included above Condition No 3 omitted Block J and required the retention of No 115-119 unless and until planning permission for the redevelopment for this portion of the site had been obtained. Having regard to the report of the Inspector and the Board Direction, I do not consider the demolition of the row of units along Harold's Cross was precluded rather I consider an appropriate

replacement was necessitated which respects the character and setting of the current buildings provide within the streetscape at Harolds Cross Village.

- 7.8. A conservation assessment accompanied the subject application which included a photographic survey of the interior of the buildings to be demolished, illustrated no significant features of interest and concluded that the removal would not have a significant impact on the overall streetscape. The report of the Conservation Officer recommended a refusal of permission as the street fronted block was regarded as being detrimental to the character of the historic village and it's central green. The grounds of appeal and observers refer to the report of the Conservation Officer and raise concern in relation to the absence of any assessment of the impact of the proposal on the surrounding area.
- 7.9. Access into the buildings was not permissible during the site inspection although I noted the condition of the exterior and the information contained in the conservation report and although the buildings provide good street frontage they do not contain any historical or architectural merit to warrant retention. Policy QH23 of the development plan discourages the demolition of habitable housing unless the streetscape considerations are satisfied and a net increase in the number of dwelling units is provided to promote sustainable development on scarce urban land. The adjoining building line along the front of Harold's Cross is irregular where the adjoining Parkview Mansion apartment block is set back c. 30m from the edge of the road and those row of semi-detached dwellings to the south of the site are set back c. 20m from the edge of the road. I note the buildings are partially commercial and having regard to the increase in units and subject to the impact on the streetscape the proposal complies with the development plan. I consider the location of the existing buildings adds to the overall character of the area and therefore, the location of any replacement building on the same footprint of No 115-119 would ensure the protection of the existing streetscape.

#### Construction of Block J1 & J2

- 7.10. Block J1 is located on the south west of the site along the front of Harold's Cross, extending back 16m into the site and is separated from the Block J1 by 21m (510m<sup>2</sup> of shared open space). J1 has a flat roof and is contemporary in design, similar in style to the permitted apartment blocks and the external materials include selected

red brick. J1 is 4 stories with a fifth storey as a corner detail and includes balconies along the front onto Harold's Cross Road. Block C and Parkview Mansion, to the north along Harold's Cross Road, are both 3 storey in height whilst the remaining buildings along the street are 2 storeys.

- 7.11. The national guidance *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area* and accompanying *Urban Design Manual, A Best Practice* includes 12 criteria for the assessment of development appropriate to the context and in the first instance development should respect the surroundings of the site. As stated above it is considered J1 is in keeping with the building line of the existing buildings on the site and I consider the location is in keeping with the current buildings fronting directly onto the Harold's Cross Road. I note the height of the existing building is c. 10m and the height of the J1 is c. 12m to the fourth floor which, in the absence of the fifth floor as discussed below (additional c. 3.3m), I do not consider the bulk and scale of the building along the streetscape is a significant variance to the existing buildings.
- 7.12. The submitted photomontages illustrate the proposal from different approaches. The height of the façade, including the fifth floor, is c. 15.5m greater than the existing building and I consider fifth storey is significantly different to Parkview Mansions to the north. I note the photomontage of the approach along the south of the site along Harold's Cross Road in the direction of the city centre, adjoining the entrance to Leinster Park and the existing row of two storey dwellings along the south of the site and I consider the fifth floor dominates the skyline, which I consider has a negative visual impact on the surrounding area.
- 7.13. Policy SC13 of the development plan reiterates the principles of good urban design, discussed above, including the use of development standards (Chapter 16) as safeguard criteria to ensure development enhances the urban form and spatial structure of the city while giving due consideration for the protection of communities. Having regard to the height of the buildings along Harold's Cross Road I consider the fifth floor of Block J1 should be removed, which I consider reasonable to include as a condition on any grant of permission.
- 7.14. Block J2, at the rear of the site is located to the south of Parkview Mansions and north of the rear of dwellings in Leinster Park. The overall design, scale and layout of

J2 is similar to J1 and other permitted apartment Blocks on the site. I consider the division of Block J and separation with open space c. 22m addresses the concerns raised by Inspector and Board in relation to the bulk of the depth. J2 is located closer to the rear of those dwellings along the south of the site, Leinster Park and I consider the main impacts relate to the residential amenities of adjoining residents, further detailed below.

- 7.15. Density & Mix- The proposal includes 23 no. apartments (10 no 1 bed units and 13 no. 2 bed units). The grounds of appeal argue there is an overprovision of one bedroom apartments within the proposed development. The report of the area planner includes a breakdown of the unit mix as proposed including those permitted on the site as 1 bed (29%) 2 bed (53%) and 3 bed (18%), which I consider complies with Section 16.10.1 of the development plan (max 30% one bed) and the B2R allowance for up to 50% 1 bed apartments.
- 7.16. In relation to density, the density for the permitted development on the site of c. 92 per hectare and the proposed density, including this proposal and the concurrent application is c. 105 units per hectare. Policy SC13 of the development plan promotes the provision of sustainable densities particularly along public transport routes. Harold's Cross Road is a main bus route. The Sustainable Urban Design Guidelines refer to the provision of minimum densities rather than maximum and I consider the increase in density is modest.
- 7.17. Having regard to the design and location of the existing buildings along Harold's Cross Road, the permitted development on the site, the design of Block J1 and the information contained in the conservation assessment, I consider the removal of No 115-119 Harold's Cross Road and replacement with a new apartment development is acceptable and will not have a negative visual impact on the character of the surrounding area or the character and setting of the protected structures.

### **Impact on the Residential Amenity**

- 7.18. As stated above the proposal includes two blocks, J1 & J2 where J2 is located to the rear of the site. J2 is a four storey flat roofed contemporary apartment Block, finished with selected red brick and c. 12.9m in height. Balconies serving the apartments are located along the rear, east and front, west of the block. The grounds of appeal are

submitted from the residents of No. 7 Leinster Park, south, who amongst other issues, raise concern in relation to the negative impact on their residential amenity.

- 7.19. Overbearing- Block J2 is located c. 3m from the rear of No 7 and the upper floors are c. 8m from the first floor, the response from the applicant to the grounds of appeal included an amended design as including a decrease in the floor space of the ground floor, therefore increasing the set back by 0.5m further north and a new set back of the upper floors by an additional 1.6m along the south east of J2, the area closest to No. 7. The response from the appellant states that amended changes are not significant to sufficiently decrease the impact on their residential amenity.
- 7.20. Section 16.10 of the development plan provides guidance for new residential development where back land should respect the character and amenities of existing properties. I note the design of J2 differs from the existing dwellings in Leinster Park although it is of note that No 7 is two stories in height whilst J2 is c. 12.9m and J2 is similar to Block E, F & G already permitted on the site. As stated above, I consider the design of J2 acceptable.
- 7.21. In relation to other apartment blocks permitted on the site, I note Block G is located c. 20m from the nearest dwelling in Leinster Park, Block F is located c. 30m from the nearest dwelling within Mount Drummond Square and Block E is located c. 50m from the rear of dwellings along Harold's Cross Road and I do not consider the location of Block J2, c.8m from the rear of Leinster Park, is in keeping with the overall location of the existing permitted development. In addition, I note the concerns raised in the Inspectors report (PL29S.245164) on the potential for overbearing from Block J on the residential amenity along the south of the site, where noted and supported in the Board Direction. I consider the location of J2 c. 8m from the rear of No 7 will cause overbearing on the property. Having regard to the Z1, residential amenity, on the site I consider it the potential for overbeating on the rear of property No 7 should be removed and I consider the location of J2 should be c. 10m to the west, closer to J1 which I consider can be included as a condition.
- 7.22. Landscaping- A landscape plan accompanied the applicants response to the grounds of appeal and a revised landscape master plan was submitted as part of a further response to the grounds of appeal including the painting of specified trees over bamboo with trees planted at 6.5- 7.0m high. The grounds of appeal refer to the

unauthorised removal of trees along the boundaries of the site conditioned to remain and do not consider the planting will be undertaken. I note the proposed planting which I consider reasonable along a residential boundary.

- 7.23. Overlooking- The southern façade of J2, facing towards the appellants dwelling, is located c. 9m from the rear of the first floor (as per the amended design) and includes large windows with obscured glazing which serve living rooms and smaller windows serving a bedroom and bathroom. The amended design includes additional obscure glazing for the smaller windows on the southern façade. The grounds of appeal are concerned that overlooking will still apply when these windows are open.
- 7.24. Section 16.10.2 of the development plan requires a separation distance of 22m between 2 storey dwellings which may be relaxed if it can be demonstrated that the development is designed in such a way that the detail of opposing windows can prevent overlooking with shorter back-to-back distances and windows serving halls and landings which do not have the same degree of privacy.
- 7.25. The orientation of the southern façade are not directly opposite the windows of the first floor of No 7 Leinster Park although they are in a location overlooking the amenity space. Having regard to my assessment above, in relation to the impact of overbearing, it is recommended that the location of J1 is moved 10m east, away from the rear of No. 7 to prevent an overbearing impact. I consider this would also remove the potential for overlooking into the private amenity space of the appellant's.
- 7.26. Overshadowing: The site is located to the north of the dwellings along Leinster Park and south of Parkview Masons. Having regard to the orientation of the site I do not consider there will be any overshadowing on the dwellings along the south of the site and will overshadow the rear of Parkview Mansions to the north of the site.
- 7.27. Daylight analysis for No 7 Leinster Park was submitted as part of the response to the grounds of appeal which detail the percent of sunlight into the dwelling and compliance with the English BRE Guidelines as set out in "Site layout planning for daylight and sunlight" (2011) and concluded that the sunlight does not fall below 80% of the baseline value for each room, which I note and consider reasonable.
- 7.28. Having regard to my assessment above and recommendation to move J2 10m east on the site , I consider this block will be in alignment with Parkview Mansions and therefore the potential for overshadowing will be removed. In addition, I consider the

potential to impact on the provision of sunlight to the rear rooms of No 7 will also be reduced.

- 7.29. Therefore, having regard to the recommendation to relocate Block J1 10m east, the overall permitted development on the site and the landscaping proposed, I do not consider the proposed development would have a significant negative impact on the residential amenity of No 7 Leinster Park or other properties in the vicinity.

### **Childcare Facility**

- 7.30. The proposed development forms part of a comprehensive apartment development for 220 no. apartment units. The parent permission did not include any childcare facilities and the Inspectors report on this application questioned the applicant's analysis that only three bedroom units would generate a demand for three bedroom unit. I note a response on the file from Dublin City Childcare Committee Ltd which included a list of available childcare facilities in the surrounding area. Whilst this list is deemed out-of-date (2015) it is of note that the adjoining St Clares pre-school had no available spaces in 2015 and was operating a waiting list. Condition no 4 required the use of the chapel for community use.
- 7.31. A subsequent permitted development, Reg Ref 4544/17 included a change of use of the chapel from office to resident's amenity facilities comprising of: a concierge, residents lounge, multi-function room, meeting room and co-working spaces, gym with revised terrace at lower ground floor on northern elevation and associated facilities; manager's office; and all associated works and a further condition on this application required the provision of additional residential facilities on the mezzanine floor of the chapel, such as for example, a library, residents' lounge/games/club rooms, workstations etc. as per circular PL 11/2016, which refers to guidelines on Build To Rent (B2R). Circular PL11/2016 provides a list of typical private amenities which should be provided for B2R projects over 100 units which include a crèche, amongst others. The circular refers to the scale of the project.
- 7.32. The report of the area planner for the proposed development noted that whilst the use was not technically open to the public, the provision of a residents facility was considered to achieve the intention in Condition No 4. The concurrent application before the Board, 301835-18 includes proposals includes an additional 30 no units and the replacement of 2 no. 3 bed units at ground floor level of Block G with a



crèche c. 254 m<sup>2</sup> and an associated outdoor play area of c. 150 m<sup>2</sup>. Having regard to the current permitted units, concurrent application and proposed development (c. 200 units) I consider a crèche should be provided on site and I consider the proposal in the concurrent application reasonable. I consider a condition requiring the provision of a childcare facility necessary in the absence of a grant of permission for the concurrent application.

### **Archaeology**

- 7.33. The site is located within a site zoned for archaeological interest. Section 16.10.20 of the development plan requires the applicant to employ a qualified archaeologist for site investigation works where necessary. Condition No 7 of the parent permission include archaeological monitoring on the site which I consider reasonable.

### **Traffic & Access**

- 7.34. The site is located in Zone 3 of Map J of the development plan and Harold's Cross Road is a proposed BRT (Bus Rapid Transit) route, Clongriffin to Tallaght in included under the Transport Strategy for the Greater Dublin Area 2016-2035. Table 16.1 of the development plan allows the provision of 1.5 spaces per dwelling as a maximum. The proposed development is modified to comprise of 16 no. dwellings and utilises the access granted in the parent permission. The basement of J2 links into the basement of Block G and no additional parking or cycle spaces are included. The TIA submitted with the parent permission relates to a development of 208 units and the report of the Inspector on the parent permission notes the inclusion of a design space of 50km/hr for the internal roads as per Table 4.2 of DMURS.
- 7.35. A submission from an observer argues the proposed development would generate a car parking demand 264 spaces. Following a request for further information on the car parking strategy the applicant submitted proposal for 220no units (including the concurrent application before the Board (ABP 301835-18 Reg Ref 3781/17) stating that 0.70 no. spaces per unit would be provided including 3. No car club spaces. Details of a Management Company, prospective tenants, car park access, unauthorised parking etc. was included as part of the further information submitted. The report of the Roads & Traffic Division had no objection to the overall proposal subject to compliance with the terms of the parent permission, the inclusion of the

car club and the implementation of the measures in the Parking Management and Strategy Report.

- 7.36. I note the scale of the permitted development on the site and the inclusion of 154 no spaces on the site and secure bicycle parking and the location of the site along the main Harold's Cross Road which is a main bus corridor into the city centre and the maximum requirement for car parking in Table 16.1 of the development plan and I consider the overall access and parking on the site acceptable for this city centre site.

### **Appropriate Assessment**

- 7.37. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans and projects on the conservation objectives of any European site.

### **Environmental Impact Assessment**

- 7.38. Having regard to the nature and scale of the structure there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

## **9.0 Reasons and Considerations**

Having regard to the national guidelines, the residential zoning (Z1) on the site, the policies and objectives of the Dublin City Development Plan 2016-2022, the current planning history on the site and the pattern of development in the area, it is considered that subject to compliance with the conditions as set out below the proposed development would not seriously injure the amenities of the area, or of property in the vicinity, would be acceptable in terms of traffic safety and

convenience and would not have a negative impact on the character and setting of any protected structure. Therefore, the proposed development would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 12th day of June, 2018 and the 13<sup>th</sup> day of August 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:
  - (a) The fifth floor of Block J1 shall be omitted.
  - (b) The location of Block J2 shall be moved 10m to the east of the site, closer to Block J1.
  - (c) Details of a pedestrian gate and associated boundary treatment for apartment 3 (Block J1).

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of visual and residential amenity.

3. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate

measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

4. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission(s) granted on 16/11/2015 under appeal reference number PL29S.245164, planning register reference number 2186/15, and any agreements entered into thereunder.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).

5. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the An Bord Pleanála on the 12th day of June, 2018 and the 13<sup>th</sup> day of August 2018. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

6. Appropriate childcare facilities, in accordance with “Childcare Facilities: Guidelines for Planning Authorities” issued by the Department of the Environment and Local Government in June 2001, shall be provided and shall be the subject of a separate application for planning permission to the planning authority.

**Reason:** To comply with the provisions of these Guidelines.

7. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for all units within the scheme. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity

9. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order,

the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

10. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

(i) the nature and location of archaeological material on the site, and

(ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any

archaeological remains that may exist within the site.

11. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

12. Water supply and drainage arrangements, including the [attenuation and] disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with

the Development Contribution Scheme made under section 48 of the Act  
be applied to the permission.

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Karen Hamilton  
Planning Inspector

27<sup>th</sup> of September 2018