



An
Bord
Pleanála

Inspector's Report

ABP-304183-19

Development

PROTECTED STRUCTURE:

Refurbishment and extension of 199, 201 & 201a Harold's Cross Road for the purposes of providing 7 apartments, change of use to residential of vacant retail unit.

Location

199, 201 & 201a Harold's Cross Road, Dublin 6W

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

2154/19

Applicant(s)

Cardinal Investments

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

(1) Adele McNamara & Antonio Bonalana.

(2) Olwyn Longmore & Diramuid O'Riordan.

Date of Site Inspection

12th July 2019

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.07 hectares, is located on the eastern side of Harolds Cross Road approximately 2.6km south of Dublin City Centre. The appeal site is occupied by a part two-storey part three-storey brick built structure consisting of no. 199 (two-storey portion) and 201 (three-storey portion). No. 201 dates from c.1750 and is on the record of protected structures. The two storey portion (199) has frontage along the footpath, the three-storey structure (201) is set well back from the footpath with an open area to the front. The last use of existing structures on site include a retail unit at no. 199 and multi-occupancy residential in the rest of the structure on site. To the rear of the site is a two-storey derelict warehouse/factory building that has been damaged in a fire in recent times.

- 1.2. To the south of the site is no. 203, which is a two-storey structure with commercial use at ground floor and residential use on the first floor and a yard area to the rear. A pedestrian laneway runs along the northern boundary of the site and on the opposite side of it is no. 197 is a two-storey structure with a retail unit at ground floor and residential use on the first floor. The laneway provides access to the rear of no. 197 and to the garden area associated with no. 10 Leinster Place which runs along a portion of the laneway on opposite side from the appeal site.

- 1.3. To the west of the site is Leinster Place, which is a street that ends adjacent the western boundary of the site. Leinster Place has two-storey dwellings on the northern and southern side with the dwellings at the end of Leinster Place adjoining the western boundary of the site with no. 10 adjoining the north eastern corner and no. 9 adjoining the south eastern corner. As noted above the gardens area associated with no. 10 Leinster Place runs along the northern side of the laneway and opposite the appeal site. A laneway providing rear access to the dwellings along the southern side of Leinster Place and the dwellings along Leinster Road further to the south provides existing access to the south eastern corner of the site.

2.0 Proposed Development

- 2.1. Permission is sought for the refurbishment of no. 199, 201 and 201a Harolds Cross Road (previously in use in multiple occupancy of 8 residential units) for the purpose

of providing 7 no apartments (4 no. 1 bed units and 3 no. 2 bed units) with private terraces/balconies at each floor level and will include ...

A change of use of residential (1 no. 1 bed unit) of an existing vacant retail unit (84sqm) at ground floor level of no. 199 Harolds Cross Road.

The demolition of a single-storey external store (9sqm) at the rear ground floor level of no.s 201 and 201a.

2 no. two-storey extensions (combined gross floor area of 81sqm) to the rear of no.s 201 and 201a, including the enlargement of 3 no. existing window opening in the rear elevation to form new internal door connections between the existing building and the extensions.

2 no. three-storey blocks providing of 5 no. apartments (4 no. 1 bed units and 1 no. 2 bed unit).

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 16 conditions. Of note are the following conditions.

Condition no. 3: Prior to commencement of development landscaping proposal to be submitted and agreed.

Condition no. 4: Brick sample to be submitted and agreed, lime render to be used and a conservation expert appointed to oversee the works.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (25/03/19): The proposal was considered consistent with land use zoning, acceptable in regards to design, scale and visual amenity, satisfactory in the context of adjoining amenities and acceptable in the context of conservation of the existing protected structure. A grant of permission was recommended subject to the conditions outlined above.

3.2.2. Other Technical Reports

Drainage Division (18/02/19): No objection.

City Archaeologist (10/02/19): Condition in the event of grant of permission.

Transportation Planning (15/03/19): No objection subject to conditions.

Conservation Officer (19/03/19): No objection subject to conditions.

3.3. **Third Party Observations**

Submission have been received from

Monica Whelan, 203, Harolds Cross Road, Dublin 6.

Adele McNamara & Antonio Bonalana, 8 Leinster Place, Dublin 6.

Olwyn Longmore & Diramuid O’Riordan, 10 Leinster Place, Dublin 6.

The issues raised include...

- Inappropriate scale and design, overbearing impact, overshadowing, overlooking, adverse impact on character of a protected structure, inappropriate division of open space and an inaccurate description in public notices.

4.0 **Planning History**

4.1 No planning history.

5.0 **Policy Context**

5.1. **Development Plan**

The relevant Development Plan is the Dublin City Development Plan 2016-2022. The site is zoned Z1 with a stated objective ‘to protect, provide and improve residential amenities’.

The structure on site is on the record of protected structures.

QH1: To have regard to the DEHLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2015) and 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009).

QH6: To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive city.

QH7: To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

QH18: To promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.

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.

CHC2: To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:

- (a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest
- (b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances
- (c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials
- (d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure
- (e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works
- (f) Have regard to ecological considerations for example, protection of species such as bats.

Changes of use of protected structures, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted.

Section 16.4 Residential Density:

The Regional Planning Guidelines settlement hierarchy designates Dublin city centre and the immediate suburbs as a gateway core for international business, high density population, retail and cultural activities. The guidelines indicate that development within the existing urban footprint of the metropolitan area will be consolidated to achieve a more compact urban form, allowing for the accommodation of a greater population than at present.

The Department of Environment, Heritage and Local Government (DEHLG) Guidelines on Sustainable Residential Development in Urban Areas 2009 supercede the 1999 Guidelines for Planning Authorities on Residential Density. In this context, Dublin City Council will promote sustainable residential densities in accordance with the standards and guidance set out in the DEHLG Guidelines on Sustainable Residential Development in Urban Areas and having regard to the

policies and targets in the Regional Planning Guidelines 2010 – 2022 or any Regional Spatial and Economic Strategy that replaces the regional planning guidelines.

Sustainable densities promoting the highest quality of urban design and open space will be sought by the City Council in all new developments. The density of a proposal should respect the existing character, context and urban form of an area and seek to protect existing and future residential amenity. Public transport capacity will also be used to determine the appropriate density allowable.

An urban design and quality-led approach to creating urban densities will be promoted, where the focus will be on creating sustainable urban villages and neighbourhoods. A varied typology of residential units will be promoted within neighbourhoods in order to encourage a diverse choice of housing options in terms of tenure, unit size, building design and to ensure demographic balance in residential communities.

All proposals for higher densities must demonstrate how the proposal contributes to place-making and the identity of an area, as well as the provision of community facilities and/or social infrastructure to facilitate the creation of sustainable neighbourhoods.

5.2 National Policy

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

The Urban Development and Building Height - Guidelines for Planning Authorities (December 2018) build on the wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework. It is acknowledged that increasing building heights has a critical role to play in addressing the delivery of more compact growth in urban areas, particularly cities and large towns.

SPPR1:

In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city

cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

SPPR3:

It is a specific planning policy requirement that where;

(A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and

2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;

then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

(B) In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme

(C) In respect of planning schemes approved after the coming into force of these guidelines these are not required to be reviewed.

Guidelines on Sustainable Residential Development in Urban Areas 2009

Appropriate locations for increase densities

Public Transport Corridors:

Walking distances from public transport nodes (e.g. stations / halts / bus stops) should be used in defining such corridors. It is recommended that increased densities should be promoted within 500 metres walking distance¹⁸ of a bus stop, or within 1km of a light rail stop or a rail station. The capacity of public transport (e.g. the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Minimum densities should be specified in local area plans, and maximum (rather than minimum) parking standards should reflect proximity to public transport facilities.

5.3 Natural Heritage Designations

None in the vicinity.

5.4 EIA Screening

5.4.1 Having regard to nature of the development comprising of the construction of 12 no. apartments and associated site works, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by Adele McNamara & Antonio Bonalana, 8 Leinster Place, Dublin 6.

- The proposal entails the provision of a new three-storey block continuing the alignment of the houses on the south side of Leinster Place. The proposal for projecting balconies at first and second floor level would cause overlooking of the rear garden of the appellants' property and be injurious to their existing residential amenity.

It is noted that the description in the public notice is not clear in that a number of the units do not overlook the communal courtyard.

6.1.2 A third party appeal has been lodged by BPS Planning Consultants on behalf of Olwyn Longmore & Daramuid O’Riordan, 10 Leinster Place, Dublin 6W.

- The proposal is contrary to national policy (Sustainable Development in Urban Areas, Urban Development and Building Heights). The proposal is contrary Development Plan policy in regards to land use zoning, density and quality housing due to the pattern and scale of development adjoining the appellants’ property and its impact on residential amenity through overshadowing and overlooking.
- It is noted that the size of the apartment units and the number of small units is contrary to Section 16.10 of the City Development Plan and provides for an unsustainable type of development. The proposal due to its negative impact on the appellants’ property would be contrary policy in regards to infill development (Section 16.2.2.2).
- The provision of windows on elevation to the lane would overlook the appellants’ property with a significant number of windows a short distance from the garden area serving no. 10.
- The appellants’ request confirmation regarding the potential for overlooking of no. 10 Leinster Place from the balcony serving unit no. 5 with concerns that this is a possibility. The same concern is raised on relation to the balcony/terrace area serving no. 7 in relation to the appellants’ property.
- The appellants raise concerns with the provision of window on the ground floor facing onto the laneway and not that such a standard of development is inappropriate and represents encroachment onto the laneway.
- The appellant questions the assessment by the Planning Authority noting that it does not take into account the impact of the proposal and that there may have been a lack of understanding of the layout of the appellants’ property relative to the site and proposed development.

- The development adjacent no. 10 would be visually overbearing and excessive in bulk and scale. The height of this element of the proposal should be restricted. The proposal would have an overbearing and impact and result in significant overshadowing.
- The appellants notes concerns regarding the methodology and limitations of the assessment of loss of light and overshadowing. The lack of provision of shadow diagrams is noted and it is noted that meeting minimum standards of the BRE guidelines should not be the sole consideration in terms of impact on the amenities of adjoining property.
- It is considered that the Council interpretation of the submitted light and shadow study may be flawed as there may have been a lack of understanding of the layout of the appellants' property. The appellants note that the proposal would have an adverse impact in terms of loss of light and that the study should be reassessed.
- The proximity and scale of the proposed development would cause light and noise intrusion relative to the appellants' property.
- The proposal is contrary to the pattern of development with an inadequate setback from the appellants' property. The building at the north east corner of the site does not respect the building line in Leinster Place with it noted that this issue was raised by the Council's conservation officer.
- The provision of a mansard style roof is out of character with existing structures at this location.
- The provision of communal space on site has been provided by locating development close to the boundary with adjoining lands to the detriment of adjoining amenities.
- It is noted that the existing structure on site connects to no. 10 and the new structure would also connect to no. 10. The appellants request a buffer zone between the structures due to concern regarding damage being caused to their property or an appropriate condition requiring agreement of management of such.
- A pedestrian access from the development onto Leinster Place should not be provided with concerns regarding the proximity of such to the appellants'

property in terms of disturbance and the potential for generation of parking and vehicles serving the development within Leinster Place.

- It is requested that a condition be imposed ensuring that Leinster Place is not used for the purpose of construction access. It is noted that appropriate construction management conditions should be applied in the event of a grant of permission.
- The proposal development would be injurious to the amenities of and depreciate the value of their property.

6.2. Applicant Response

6.2.1 A response has been submitted by Tom Phillips & Associates on behalf of the applicants, Cardinal Investments.

- The response is in relation to the appeal concerning no. 8 Leinster Place.
- It is noted that the ground floor open space associated with unit N2 is well separated from the existing residential units in Leinster Place with no overlooking concerns.
- The first floor balcony is recessed with no direct line of sight of the rear gardens associated with no. 8 or the dwellings along Leinster Place.
- The second floor balcony is recessed with a green roof with planting along its edge. There is a deep reveal in the mansard roof a 1.3m high balustrade, which will minimise overlooking.
- The applicant note that the development description in the public notices is accurate.

6.2.2 A response has been submitted by Tom Phillips & Associates on behalf of the applicants, Cardinal Investments.

- The response is in relation to the appeal concerning no. 10 Leinster Place.
- The proposal is consistent Development Plan land use policy. The proposed development would also be consistent with the objectives of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities and the Urban Development and Building Heights Guidelines.

- It is considered that the height and scale of the proposed new blocks on site is appropriate relative to the height and scale of adjoining properties including no. 10 Leinster Place and no. 203 Harolds Cross Road.
- It is noted that the introduction of window at ground floor level overlooking the laneway is a planning gain and would provide additional passive surveillance of the laneway. The two windows are a bathroom with obscure glazing and a bedroom and such would have no adverse impact in regards to overlooking.
- No windows are proposed on the elevations facing 203 Harolds Cross Road and therefore no overlooking. The design and location of balcony areas relative to no. 203 would result in direct overlooking.
- It is noted that proposed new development would be acceptable in the context of its impact on the character and setting of the protected structure and would be acceptable in the context of views from Leinster Place towards the protected structure.
- The appellant has submitted a separate report that defends the veracity and conclusions of the daylight and sunlight assessment that was submitted with the application.
- It noted that the provision of no car parking is acceptable due to the accessible location of the site and that such an approach has been deemed acceptable by the City Council.
- There is to be three pedestrian entrances including the one of Leinster Place. It is noted that provision of pedestrian access off Leinster Place will improve permeability and integrate the proposal into the area and that the impact of such will not be significant to adjoining amenities.
- The impact of construction will be mitigated by adequate construction management with an outline construction plan submitted and condition no. 7 requiring the submission of a final construction management plan.
- The provision of windows on the northern elevation has adequate regard to adjoining properties with the provision of windows serving a bathroom and bedroom and angled windows in the mansard roof to minimise overlooking.

6.3. Planning Authority Response

6.3.1 No response.

6.4. Further Responses

6.4.1 Further response by BPS Planning Consultants on behalf of Olwyn Longmore & Diramuid O’Riordan, 10 Leinster Place, Dublin 6W.

- The appellants reiterate that the proposal is contrary to the zoning objective of the site due to adverse impact on their residential amenities.
- The appellants reiterate that the proposal would be visually overbearing and result in overlooking and overshadowing of their property and be injurious to residential amenity.
- It is reiterated that the height and scale of the development proposed relative to the appellants property is inappropriate and would have a significant adverse impact.
- It is noted that in the event that the Board does grant permission a number of conditions should be applied including provision of obscure glazing, non opening windows and use of roof lights instead of windows at second floor.
- The appellants reiterate their concerns regarding the ground level windows facing onto the laneway.
- The appellants reiterate the concerns regarding the scale of the proposal in the context of the character of the existing protected structure noting the three-storey building should be reduced in height.
- The appellants reiterate concern regarding the methodology used to assess impact on daylight /sunlight. The appellants take issue with the description of their garden area in the report submitted.
- It is noted that issue of car parking and overspill of such onto adjoining sites is a consideration.
- The appellants reiterate their concerns about the pedestrian access proposed onto Leinster Place and the view that no construction access should be facilitated from Leinster Place.
- Detail is still required regarding how the proposed development is to connect to no. 10 Leinster Place.

7.0 Assessment

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development/development plan/national policy

Density

Quality of design/residential amenity/development control objectives

Design, scale, and visual impact

Adjoining amenities

Conservation

Car parking/traffic

Other issues

Appropriate Assessment

7.2. Principle of the proposed development/development plan policy:

7.2.1 The proposal entails the refurbishment and extension of an existing protected structure and the construction of two new structures within its curtilage to provide 12 no. apartment units. The appeal site is zoned Z1 with a stated objective 'to protect, provide and improve residential amenities'. The provision of residential development is consistent with the zoning objective of the site and established uses on adjoining sites. The existing structure on site has previously been used for residential development with a retail unit also located on site (all currently vacant).

7.3. Density:

7.3.1 The proposal entails the provision of 12 no. units on a site of 0.07 hectares giving a density of 171 units per hectares. This represents a significant increase on prevailing residential density in the area. Development Plan policy and national policy permits for increased densities along public transport corridors. The appeal site is located on Harolds Cross Road approximately 2.6km south of River Liffey. Harolds Cross Road has Quality Bus Corridor with bus stops located on both sides of the road in very close proximity to the site. The appeal site is well serviced by public transport and is at a location where the city centre is accessible by pedestrians and cyclists.

7.3.2 The Guidelines on Sustainable Residential Development in Urban Areas 2009 note that appropriate locations for increased densities include public transport corridors with it “recommended that increased densities should be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station. The capacity of public transport (e.g. the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Minimum densities should be specified in local area plans, and maximum (rather than minimum) parking standards should reflect proximity to public transport facilities”.

7.3.3 I would consider that the site is an appropriate location for higher densities and that such should not be below 50 units per hectare. The density proposed is above 50 units per hectare and is acceptable subject to the proposal being acceptable in terms of design, scale, adjoining amenity and compliance with development management standards. These aspects of the proposal shall be assessed in the following sections of this report.

7.4. Quality of design/residential amenity/development control objectives:

7.4.1 The proposal entails alterations and extension of an existing three-storey structure in addition to the construction of two separate three-storey blocks to the rear of the existing structure. The majority of the proposed units are located around an external courtyard to the rear of the existing structure and to be accessed from the existing pedestrian laneway running along the northern boundary of the site. 12 no. apartment units are proposed. There are 7 no. 1 bedroom units and 5 no. 2 bed units. The relevant and most up to date standards for apartment development are the Sustainable Urban House: Design Standard for New Apartments (March 2018). In relation to minimum apartment size the requirement is 45sqm, 73sqm and 90sqm for 1, 2 and 3 bed apartment units respectively (SPPR3). All units proposed exceed the minimum standards apart from unit 4, which is a 2 bed unit with a floor area of 68sqm, this is a two bed unit that accommodates 3 people (one double room and one single). The guidelines provide a minimum standard of 63sqm for a two bed unit

accommodating three people so the proposal is fully compliant in terms of floor areas. It is noted that in order to safeguard higher standards that “the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%”. This is the case in regards to the proposed development.

7.4.2 Under the same guidelines “it is a policy requirement that apartment schemes deliver at least 33% of the units as dual aspect in more central and accessible and some intermediate locations, i.e. on sites near to city or town centres, close to high quality public transport or in SDZ areas, or where it is necessary to ensure good street frontage and subject to high quality design. Where there is a greater freedom in design terms, such as in larger apartment developments on greenfield or standalone brownfield regeneration sites where requirements like street frontage are less onerous, it is an objective that there shall be a minimum of 50% dual aspect apartments. Ideally, any 3 bedroom apartments should be dual aspect”. In this case all of the units appear to be dual aspect and compliant with the guidelines.

7.4.3 Appendix 1 contains minimum standards for private amenity space with a requirement of 5sqm, 6sqm and 9sqm for 1, 2 and 3 bed apartment respectively. A minimum depth of 1.5 metres is required for balconies, in one useable length to meet the minimum floor area requirement under these guidelines. These standards are met in all cases apart from the minimum depth of 1.5m in the case of units no. 5 and 6 at first floor level. The apartments also meet all relevant standards in relation of internal storage space, ceiling heights, room dimensions outlined in Appendix 1 of the guidelines.

7.4.4 The guidelines note that “communal amenity space may be provided as a garden within the courtyard of a perimeter block or adjoining a linear apartment block. Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year. Roof gardens may also be provided but must be accessible to residents, subject to requirements such as safe access by children. These facilities offer a satisfactory alternative where climatic and safety factors are fully considered, but children’s play

is not passively supervised as with courtyards. Regard must also be had to the future maintenance of communal amenity areas in order to ensure that this is commensurate with the scale of the development and does not become a burden on residents". It is also noted that that "for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality". The City Development Plan (Section 16.10.3) notes in relation to public open space that that "in new residential developments, 10% of the site area shall be reserved as public open space".

7.4.5 There is a courtyard area within the proposed development which is accessible to all units and provides for at least 10% of the site area. I would consider that such is of sufficient quality to service the residential amenity of future residents and taken in conjunction with the level of private amenity space provided, the proposal is satisfactory in terms of the quantity and quality of public and private open space.

7.5. Design, scale and visual impact

7.5.1 The proposal entails refurbishment of an existing part two-storey and part three storey structure. In terms of new development it is proposed to extend the existing structure with 2 no. two-storey extensions to the rear and the provision of 2 no. separate three-storey blocks, one in the north eastern corner of the site and one at the south eastern corner of the site. The extensions to the rear of the existing structure on site are modest in scale and subordinate to the existing structure. Their location to the rear of the existing structure also means they are unlikely to be highly visible in the surrounding area.

7.5.2 The two new blocks adjoin the existing dwellings on either side of Leinster Place and bookend each terrace. The existing dwellings are two-storey dwellings with the new blocks being three-storey with the second floor in a mansard style roof space. The new blocks feature a brick and render finish with profiled metal cladding on the roof profile. Despite featuring a higher ridge height than the existing dwellings and a different type of roof profile, the overall scale and design of the proposal would be acceptable in the context of visual amenity. The new blocks have regard to the established building line of the dwellings along Leinster Place and are not

significantly larger in scale in comparison to existing development. Views of the proposed new structures from Leinster Place are partial views and would not have an adverse impact on visual amenities.

7.6. Adjoining amenities:

7.6.1 The main issues raised in the appeal submission relate to impact on adjoining amenities. The site is adjoined by no. 203 Harolds Cross Road to the south, no. 9 and no. 10 Leinster Place to the east and an existing laneway runs along the northern boundary with no. 197 Harolds Cross Road to the north as well as the amenity space serving no 10, which is located to the north of the site on the opposite side of the laneway. The proposal has no impact on the amenities of either 197 or 203 Harolds Cross Road.

7.6.2 As noted above the proposal entails the provision of 2 no. three-storey blocks adjoining the gable ends of no. 9 and 10 Leinster Place in the north eastern and south eastern corner of the site. These three-storey blocks have regard to the building line of the existing dwellings along Leinster Place and have a north south orientation with balcony areas located at first and second floor level on their southern elevations. One of the appeal submissions is from the residents of no. 8 Leinster Place, which is located to the east of the new block. The issues raised regarding the new development is overlooking from the balcony areas located on the southern elevation. The three-storey block located west of the dwelling on the southern side of Leinster Place conforms to the building line of the existing dwellings and is not significantly higher in ridge height than the existing dwellings. The orientation of this block is north south in keeping with the existing dwellings. I would consider that the design and scale of this block has adequate regard to the pattern of development and is of a scale that would not be overbearing or result in overshadowing of the adjoining properties. In relation to overlooking it is notable that the first floor balcony is recessed and does not allow direct overlooking to the east. The second floor balcony is a projecting balcony and would allow for views of the rear yards of the dwellings along Leinster Place. I would question whether this would have a significant detrimental impact on the amenities of the adjoining dwellings and the appellants' property given the layout of the rear yards and existing intervening structures. I would however note that such could easily be eliminated by the

provision of screen along the eastern side of the second floor balcony. An obscure glazed screen would address such concerns and would not hamper the usability or quality of the balcony area. Such could be done by way of condition.

7.6.3 I am satisfied that the block in the south east corner would have no adverse impact on the dwellings to the south, fronting Leinster Road. These dwellings have long back gardens that back onto the laneway to the south of the site and along the rear of Leinster Place. These dwellings have long rear gardens and are not impacted due to the fact they are separated from the appeal site by an existing laneway as well the buffer provided by intervening structures and vegetation to the rear of the existing dwellings.

7.6.4 The other appeal submission concerns the impact of the proposal in regards to no. 10 Leinster Place, which adjoins the north eastern corner of the site. No. 10 is different in layout to the rest of the dwellings along Leinster Place, which have very small rear yard areas in that it has a larger garden area that is to the side of the property and runs along the northern side of the laneway and is directly north of the existing warehouse building on site and the proposed three-storey block in the north east corner of the site. The appeal submission raised concerns regard the impact of overlooking and overshadowing form the new block as well as overlooking from the balcony area serving unit no. 5 at first floor level and no. 7 at second floor level.

7.6.5 In relation to overshadowing, the new block replaces an existing two-storey derelict structure on site and is 1.7m higher than the exsiting structure on site. The applicants submitted a Daylight Assessment report which was based on the BRE guidelines 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice', 2011. The report includes an assessment of sunlight and skylight impact on neighbouring residences, assessment of sunlight impact on neighbouring recreation areas, sunlight provision to proposed recreation spaces and daylight provision within proposed new accommodation. The sunlight and skylight impact of the proposal was noted as being compliant with the BRE guidelines. It is noted that sunlight provision to proposed recreation spaces and daylight provision within proposed new accommodation is also compliant with BRE guidelines (deficient in case of a small level of the accommodation proposed within the protected structure).

In relation to the recreation space serving adjoining properties the study focused on the amenity space serving no. 10 Leinster Place and a garden servicing a property on Parkview Avenue to the north east of the site. In the case of the garden serving 10 Leinster Place it is noted that 0% of the garden area receives more than 2hrs of direct sunlight on the 21st and that this would not change as a result of the proposal and therefore the magnitude of impact is negligible with no significant loss of sunlight. The appellants' question the use of the BRE guidelines, which are not national guidelines however the applicant has correctly noted that these guidelines are referred to as being appropriate standards to assess development under both the 'Sustainable Urban Housing: Design Standards for New Apartments-Guidelines for Planning Authorities' (Section 6.6) and 'Urban Development and Building Heights-Guidelines for Planning Authorities-Guidelines for Planning Authorities' (Section 3.2).

7.6.6 I would note that the existing amenity space serving no. 10 Leinster Place is already well enclosed by existing development on adjoining sites and that the scale of development proposed on opposite side of the laneway is not significantly larger in scale than existing development on site to the extent that it would have a significant or adverse impact on overshadowing over and above the existing development on site. I am satisfied that the daylight assessment submitted is adequate to conclude that the proposal would be satisfactory in the context of daylight/sunlight level at adjoining properties and within the proposed development itself.

7.6.7 In relation to the issue of overlooking the northern elevation of the block to south of the appellants garden has two windows at each of ground, first and second floor level. The ground floor windows have no impact due to existing boundary treatment on the opposite side of the laneway. I would consider that provision windows at ground floor level is acceptable and would be positive in regards to passive surveillance of the existing laneway. At first floor level there are two windows, one serving a bathroom to be fitted with obscure glazing and a window serving a bedroom. The applicants note that these are low intensity areas and would have no adverse impact on residential amenity. I would note that these windows do overlook the amenity space associated with no. 10 Leinster Place due to their elevation and proximity. I would consider that amendments could be made to address such. Firstly would note that the bedroom at first floor has a window on the southern elevation

and that a window on the northern elevation is not necessary. This window could be omitted or possibly replaced with a high level window. The bathroom window is to be fitted with obscure glazing and I am satisfied this such would deal with the issue of overlooking. The two windows at second floor level serve the living space of a duplex apartment unit and also have a glazed opening on the southern elevation, which is the main source of light. I would consider that an amendment could be made to provide for two high level windows, which could include a skylight component that would provide light and not overlook the property at no. 10 Leinster Place. I would consider that these amendments are reasonable and would address the appellants concerns without compromising the quality of the development proposed.

7.6.8 In relation to the balcony area serving units no. 5 and no. 7, I would consider that the location and proximity of such in relation to the appellants' amenity space at no. 10 is satisfactory and that such is an acceptable arrangement in an urban context such as this where absolute privacy cannot be expected or guaranteed. In regards to the provision a pedestrian entrance onto Leinster Place, I would note that such would aid permeability and would not cause a significant disturbance to adjoining residents. I am satisfied that subject to a number of amendments that the proposed development would be satisfactory in the context of amenities of adjoining properties. In addition I would note that appropriate construction management should be adequate to prevent an adverse impact on adjoining properties and a condition regarding such should be imposed.

7.7. Conservation:

7.7.1 The existing structures on site consist of no.s 199, 201 and 201A. 201 and 201A are on the record of protected structures (3584). The structure in question is a three-storey red brick house dating from c.1750. An Architectural Heritage Impact Assessment (AIHA) was submitted. The last use of the existing structures was as multi-occupancy residential. The AIHA details features and historical fabric of significance. The AIHA outlines details of alterations to be carried out to the protected structure. In terms of demolition the derelict factory building to the rear (201A), which was damaged in a fire and is itself a later addition, is to be demolished. A small lean-to annex on the rear elevation is to be demolished with it noted that such is ancillary and does not contribute to the significance of the

protected structure. The proposal entails a number of internal alterations to a protected structure as well as two small extensions to the rear. I would note that the level of alterations internally is being kept to the minimum with the historical layout mainly intact and features of significant being retained. The level of extension to the rear is small and ancillary to the existing structure on site and would have no significant impact on the character and setting of the protected structure.

7.7.2 The level of demolition to the existing structure is small with a small rear annex being demolished and such would not be detrimental to the character and setting of the existing structure. The demolition of the derelict factory building is acceptable on the basis that this structure makes no contribution to the status and setting of the protected structure being a later addition with no architectural heritage value and currently being derelict and detrimental to the overall visual amenities of the area.

7.7.3 In addition to alteration and extension of the existing structures, it is proposed to construct 2 no. three-storey blocks to the rear of the site, one in the north eastern corner and one in the south western corner within the curtilage of the protected structure. The location of these structures to the rear of the site and the fact they are lower in ridge height than the existing three-storey structure on site, means that they are not highly visible from the public realm in the vicinity of the site. I would be of the view that the overall design and scale of these new structures would be acceptable in the context of the setting and character of the existing protected structure and would have no significant visual impact on such. I would note that subject to an appropriate condition including employment of a suitably qualified conservation architect to oversee the works, the proposed development would be satisfactory in the conservation and protection of architectural heritage.

7.8 Car parking/traffic:

7.8.1 The proposal is for 12 no. residential units consisting of refurbishment of an existing structure and construction of additional structures on site. The site is a built up area a short distance from the city centre, located on a public transport corridor and accessible to the city centre by pedestrian and cyclists. The proposal does not entail the provision of any car parking on site. The site is located with Area 3 for the purposes of car parking. Maximum parking standards are set down under Table 6.1

with the requirement in Area 3 being 1.5 space per residential unit. These are maximum standards and deviation from such is allowed on basis of a number of criteria including location and accessibility to public transport.

7.8.2 As noted already the site is well serviced by public transport and accessible to the city centre by pedestrian and cyclists. The size of the site and the fact there is an existing protected structure on site does not lend itself to the provision of any car parking with limited space for such and lack of good accessibility to access the site for parking. Even if parking were provided it would be very limited in number. I would consider based on the fact that the site is short distance from the city centre and in walking/cycling distance as well as being well serviced by public transport, it is not dependent on the car transportation. There is adequate justification for the lack of car parking on site.

7.8.3 One of the appellants raises concerns regarding overspill of car parking onto Leinster Place. I would reiterate the view that the development by virtue of its location and accessibility to public transport is not dependent on car transportation. I would also note that the area is subject to parking control and a parking permit scheme so there is parking management in the area. The proposed development entails the refurbishment and use of an underutilised protected structure at a location that is suitable for additional residential development. I do not consider that the issue of potential generation of on street car parking is a reason for precluding the proposed development.

7.9 Other Issues:

7.9.1 The appellants' at no 10 Leinster Place note that the new three-storey block connects to their property and question how such connection is to be made. As noted earlier the proposed development is appropriate in design and scale and subject to a few amendments has adequate regard to proper planning and sustainable development of the area. The issue of connection between the two properties/party wall issues is not a planning consideration.

7.10 Appropriate Assessment:

7.10.1 Having regard to the nature and scale of the proposed development and its proximity 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 or projects on a European site.

8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

Having regard to:

- (a) The provision of the Dublin City Council Development Plan 2016-2022,
- (b) Sustainable Urban Housing: Design Standards for New Apartments-Guidelines for Planning Authorities (March 2018),
- (c) The Urban Development and Building Height - Guidelines for Planning Authorities (December 2018),
- (d) The existing pattern of development at this location,
- (e) The design, scale and layout of the proposed development, and
- (f) The submissions and observations on file,

It is considered that, subject to the compliance with the conditions set out below, the proposed development would be in accordance Development Plan policy, would not detract from the visual amenities of the area, would be acceptable in the context of the amenities of adjoining properties, acceptable in the context of architectural heritage and be satisfactory in the context of traffic safety and convenience. The proposed development would therefore, 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, 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 interests of clarity.

2. The proposed development shall be amended as follows:

(a) The window serving the bedroom in unit N3 on the northern elevation at first floor level shall be omitted.

(b) The two windows serving the living space of N3 on northern elevation at second floor level, shall be amended to be high level windows and shall have sill height at least 1.7m above the second floor level and may extend up to the ridge height and into the roof profile (skylight).

(c) The window serving the bathroom in unit N3 on the northern elevation at first floor level shall be fitted with obscure glazing and permanently maintained as such.

(d) A glazed obscure screen shall be fitted on the eastern side of the balcony area serving unit N5 at second floor level and shall be at least 2m in height above the floor level of the balcony.

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 residential amenity.

3. Details of materials, colours and textures of all external finishes to the proposed development shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of visual amenity.

4. The streets and footpaths within the development shall comply with the requirement and specifications of the Design Manual for Urban Roads and Streets (DMURS) issue in 2013.

Reason: In order to comply with the guidance give in the Design Manual for Urban Road and Streets.

5. Site development and building works shall be carried out only between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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 amenities of property in the vicinity.

6. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of permission.

Reason: In the interest of visual amenity.

7.

(a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.

(b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Environment, Heritage and Local Government in 2004. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have

to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

(c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.

Reason: To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

8. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

9. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

10. Drainage requirements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: To ensure adequate servicing of the development and to prevent pollution.

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 traffic management, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and the amenities of the area.

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

13. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in

writing with the planning authority, before any of the residential or commercial units are made available for occupation.

Reason: To provide for the future maintenance of this private development in the interest of residential amenity and orderly development.

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

15. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Colin McBride
Planning Inspector

16th July 2019