



An
Bord
Pleanála

Inspector's Report ABP304552-19

Development	Demolition of existing building and Construction of 34 Apartments.
Location	126-128 Harold's Cross Road, Dublin 6W.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	4735/18.
Applicant	Rivergate Property Harold's Cross Limited.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellant	Martin Ryan.
Observers	None.
Date of Site Inspection	23 rd July, 2019.
Inspector	Paul Caprani.

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1.0 Introduction

ABP304552-19 relates to a third-party appeal against the decision of Dublin City Council to issue notification to grant planning permission for the demolition of an existing building and the construction of an infill residential development with 34 apartments at Harold's Cross Road, Dublin 6 West. The sole third-party objector raised a number of concerns relating to prematurity of development, underdevelopment of the site, lack of consultation, the need for an integrated action plan for the area, flood risk and impact on adjoining residential amenities through reduction in natural light and increased traffic levels.

2.0 Site Location and Description

- 2.1. The L-shaped site is located on the western side of the Harold's Cross Road directly opposite Harold's Cross Park c.3 kilometres south of Dublin City Centre. The site has a stated area of 1,534 square metres (0.15 hectares). The site has a road frontage of approximately 19 metres onto Harold's Cross Road. The dimensions of the site increase to the rear to just over 35 metres. The site has a depth of approximately 60 metres. The northern part of the site fronting onto the road currently accommodates a two-storey five-bay period building approximately dating from the mid-19th century. The building was until recently occupied by office space but was vacant at the time of site inspection. An archway adjacent to the main entrance provides access to the building to the rear of the site. There is a notable slope from the front of the site to the rear. No. 128 adjacent comprises of a building façade only with no roof. The windows on the façade have been blocked up. A large expanse of yard area and outdoor storage area is located to the rear of the site. Lands to the immediate north of the site comprise of three terraced type residential buildings set back from the roadway incorporating the same building line as No. 126. These three two-storey buildings are currently in residential use. There are three structures to the immediate south of the subject site continuing the terrace of dwellings along this section of Harold's Cross Road. These buildings are also two-

storey in height and appear to accommodate a mixture of office development and residential development. There is a first floor balcony to the rear of no. 130.

- 2.2. Further south of the subject site a private access road runs westwards and serves Gandon Close Apartments three blocks of three-storey style apartments set around a landscaped courtyard area. Parking associated with the Gandon Close residential development is located to the rear of the subject site. Beyond Gandon Close is Mount Jerome Cemetery.

3.0 Proposed Development

- 3.1. Planning permission is sought to demolish the existing buildings on the site while retaining the front façade of No. 126 Harold's Cross Road. It is proposed to construct 34 apartments in two separate blocks, Block 1 (Block B) the larger block is to be located to the rear of the site and comprises of a four-storey over ground floor level block containing 31 apartments in total.
- 3.2. The smaller block is located to the front of the site facing onto Harold's Cross Road. This block is to accommodate 3 apartments, two apartments in No. 126 at ground and first floor level where it is proposed to retain the existing front elevation of the building and one apartment at first floor level above No. 128. The ground floor of No. 128 is to accommodate two car lifts providing access to a new basement level car park containing 29 car parking spaces, 34 cycle parking spaces, an attenuation tank, refuse storage area and plant room. The basement car park is to extend beneath the entire site. Block No. 2 at two-storeys in height retains the same mass and scale of the existing buildings facing onto Harold's Cross Road.
- 3.3. Block No. 1 to the rear containing five storeys over basement rises to a height of approximately 15.25 metres above street level (approximately 17.5 metres below communal garden level within the site). Block 1 incorporates a recessed penthouse at top floor level.
- 3.4. Block 1 incorporates recessed glazed external balconies on the apartments facing eastwards into the area of communal open space. The four floors above ground floor level project beyond the building line of the ground floor. The external finishes include a mixture of painted external nap render which is most predominant at ground floor level. The first, second and third floor of the proposed apartment block

are encased in a selected brick external leaf finish. The selected brick finish is also prominent on the north and south elevation and the rear elevation of the proposed block. It is proposed to incorporate extensive metal cladding on the recessed penthouse level. The main finish on the front façade of the apartment comprise of aluminium windows, doors and frames incorporating clear glazing. Details of the external finishes are indicated on Drawing PL-200 Rev B.

3.5. In total within both blocks, it is proposed to provide 8 units at ground floor level, 9 units at first floor level, 6 units at second floor level, 6 units at third floor level and 5 units at penthouse level. The summary of unit mix is as follows:

- Studio apartments – 5.
- One-bed apartments – 15.
- Two-bed apartments – 14.

3.6. The overall size of the apartments range from 38.5 square metres in the case of the studio apartments to 87 square metres in the cases of the two-bedroomed apartments. The units incorporate a mixture of dual and single aspect apartments.

3.7. An area of communal open space is proposed internally between the two blocks. The design and layout of the communal open space area is indicated on the landscape masterplan submitted by Ronan McDiarmida and Associates. A communal open space area 390 square metres is provided. It is also noted that Block 1 is to incorporate a sedum roof.

4.0 **Planning Authority's Decision**

4.1. Dublin City Council issued notification to grant planning permission subject to 15 conditions.

4.2. **Documentation Submitted with the Planning Application**

4.2.1. The planning application was accompanied by the statutory application form drawings, public notices and planning fee etc. In addition, the following documentation was also submitted with the application and is briefly summarised below.

- 4.2.2. A **covering letter** was submitted by Simon Clear and Associates Planning Consultants setting out details of the proposed development and the policy context as it relates to the development. The letter also sets out details as to how the proposal fully accords with various development management standards.
- 4.2.3. A detailed **external lighting assessment** prepared by RM Breen and Associates. It concludes that the report demonstrates that the exterior lighting associated with the development within the curtilage of the site will not overspill into adjacent properties.
- 4.2.4. Also submitted by RM Breen and Associates is a **report indicating Part L compliance**. The report concludes that it has been demonstrated that in the case of the most exposed apartment the proposed development will meet the energy efficiency requirement laid out in Part L of the Building Regulations.
- 4.2.5. **A Management Plan** for the eradication of non-native invasive species on the site. It is noted that an incidence of Japanese Knotweed was identified at the north-western corner of the site. It is proposed that this will be excavated and removed under licence.
- 4.2.6. **An Environmental Impact Assessment Screening Report** was prepared and submitted on behalf of the applicant by Simon Clear and Associates. It sets out details of EIA screening and sub-threshold projects requiring EIA. It also assesses the proposed development against criteria set out in Schedule 7 of the Planning and Development Regulations, 2001. Having assessed the proposal against the criteria set out in Schedule 7, it is concluded that no significant effects are anticipated and therefore an EIA is not required.
- 4.2.7. **An Operational Waste Management Plan** by AWN Consulting was also submitted. It sets out an overview of waste management in Ireland together with a description of the project and the estimated waste arisings. Details of the waste storage and collection proposed are set out in the submission. It states that overall the waste strategy addresses all legal requirements, waste polices and best practice guidelines particularly in relation to segregating recycled materials.
- 4.2.8. A **Flood Risk Assessment** was submitted prepared by JBA Consulting. It notes that the subject site is located adjacent to the culverted River Poddle. It notes that there is significant evidence of historic flooding to the site particularly in 2011. However, this was greatly exacerbated by a culvert blockage impeding the flow of the Poddle.

CFRAM results confirmed that the site is partly located within Flood Zone B but it is stated that the residual risk impacts from the culvert blockage present the greatest risk to the site and this must be addressed by the design of the proposal. It is noted that the River Poddle Flood Alleviation Scheme is now progressing towards the identification of options and it is likely that the scheme will be in place by c.2022. Despite the fact that measures are in train or have already been completed to alleviate flooding, the design strategy for the site has adopted a position of defending the site to the 1% AEP plus culvert blockage. This results in a raised boundary wall designed to withstand hydraulic flooding to ensure that blockage flows cannot enter the site. The assessment of impact confirms that any impacts will be localised and manageable. The storm water system has been designed in accordance with the principles of SuDS. A hydro-bake system has been designed in order to restrict flows to greenfield run-off values to avoid inundation of the storm water system and reduce flood risk to areas downgradient of the site. Attenuation is provided to the 100-year rainfall event plus 20% climate change for the maximum discharge of 2 l/s.

- 4.2.9. **A Transport Parking Strategy Report** was also submitted prepared by Duffy Chartered Engineers. The report makes reference to the local site context detailing walking, cycling and parking provision together with bus services. The report goes on to set out the policy framework making reference to various policy documents including DMURS, the County Development Plan, the Transport Strategy for the Greater Dublin Area (2016-2035) and the National Cycle Policy Framework. The report also sets out trends in smarter travel within the city. It states that the proposed development is seeking to reduce car use and eliminate the provision of unnecessary infrastructure for car parking in order to promote more sustainable modes of transport. The report sets out details of the car parking access arrangements via the vehicle lifts. Details of cycle parking is also detailed. The report notes that the site is well served by public transport infrastructure with greater potential to reduce reliance on the private car. It is proposed to provide a car club which helps to promote modal shift from the private car to more sustainable modes of transport.
- 4.2.10. Also submitted is an **Engineering Report** setting out details of the surface water drainage system, the foul drainage system and the water supply. An attenuation

storage tank will be provided below ground floor level to ensure that any run-off during a storm event equates to equivalent greenfield run-off.

A report from DCON Safety Consultants in relation to a **Draft Construction Management Plan** was also submitted with the application. The document sets out the envisaged strategy for servicing the construction works with personnel and materials, together with accommodation and welfare facilities. Methodologies for the removal of waste and site security considerations during the construction phase. The document includes an outline of construction phasing together with methodologies to be employed during construction. A summary of foreseeable potential impacts arising from the construction works and an outline of a construction management plan to be developed by the contractor prior to works commencing on site is also set out in the document.

- 4.2.11. **A Conservation Report** was submitted prepared by Douglas Wallace Architects. This report notes that the existing building at No. 126 probably dates from the early 19th century. The conservation report details the existing building at No. 126 on a room by room basis. A detailed photographic survey also accompanies the report. It notes that the proposed development at 126 Harold's Cross involves retaining the front façade elevation and reinstating the roof pitch of the main house and removing all other structures on site. It notes that the building has lost much of its historic fabric through modern alterations including the creation of a vehicular access archway. As such, it is of limited architectural significance and is not listed as a protected structure. The conservation of the existing fabric is set out. The proposed redevelopment will ensure the future of the existing streetscape and will add positively to the character of the street.

5.0 **Observations**

- 5.1. A large number of observations were submitted from residents of the surrounding areas objecting to the proposal. The contents of these observations have been read and noted.
- 5.2. A report from the City Archaeologist notes that the proposed development is partially located within a zone of archaeological constraint for the Recorded Monument DU018-020 which is listed on the Record of Protected Monuments and Places and

subject to statutory protection under Section 12 of the Monuments Act 1994. It is therefore recommended that a condition of archaeological monitoring which is detailed in the report be attached to the grant of any planning permission.

- 5.3. A report from the Engineering Department Drainage Division states that there is no objection to the proposed development subject to standard conditions.
- 5.4. A report from the Waste Regulation Section sets out details of waste protocols which should be complied with if planning permission is granted.
- 5.5. A report from the Transportation Planning Division notes that the subject site is well served by public transport which would be further improved by the planned Bus Connects Project. It is noted that there is nothing in the proposed scheme that will prevent the continuation of unauthorised parking outside the front of the development and the applicant is asked to submit revised plans which includes pavement treatment which precludes unauthorised parking. The report goes on to set out details of the car parking, cycling parking and servicing arrangements associated with the proposed development. In conclusion, it is stated that the Traffic Division has no objection to the proposed development subject to five conditions.

5.6. Additional Information Request

- 5.6.1. The initial planner's report sets out details of the pre-planning meeting which took place in relation to the proposal, the planning policy as it relates to the site and its surroundings and the observations and submissions contained on file. The planning assessment details the proposed development having particular regard to impact on residential amenities, car parking and access and the reuse of older buildings of significance. It is concluded that there is no objection in principle to the development. However, it is recommended that further information be submitted in relation to the following.
 - 1. The Planning Authority is concerned about the proximity of Block 1 to the western and northern boundaries, particularly where the building overlooks the car park on Gandon Close. The applicant is requested to consider setting back the development further back from these boundaries, to ensure that development potential of adjacent sites are not adversely impacted upon by the proximity of Block 1.

2. The applicant is requested to clarify the use of the building directly adjoining the eastern boundary to the rear of the site (known as No. 134 Harold's Cross Road) and whether the window directly on this boundary serves the habitable room. The applicant is strongly requested to consider setting back the proposed structure further from this location including potentially staggering the height or removing this section of the building in order to ensure adequate separation and daylight/sunlight is received by this property and is not dominated by the structure.
3. The applicant is requested to detail how the proposed development will be serviced by emergency vehicles.
4. The applicant is requested to submit revised plans which detail treatment to the area of hardstanding and the Harold's Cross Road frontage to discourage and prohibit unauthorised parking in this area which currently occurs.

5.7. Additional Information Response

5.7.1. A response was received on behalf of the applicant by Simon Clear and Associates.

It notes that the planning officer is generally positive regarding the scale of the development and compliance with guidelines and development plan policies. In relation to the issues raised the following is stated:

- The project architects have undertaken a comprehensive review of the scheme to address the concerns of the Planning Authority regarding proximity to boundaries. In response, Block 1 is set back from the western boundary by 5.4 metres from the main building and 3.8 metres from the outer edge of terraces.
- It is noted that to the north the building will overlook an overgrown landlocked site that backs onto Mount Jerome Cemetery. The northern building line of Block 1 is now staggered to provide an additional 1.1 metre setback at the north-east corner.
- With regard to the building directly adjoining the eastern boundary to the rear of the site, it is the applicant's understanding that No. 134 is a residential property and that the window located to the side boundary most likely serves a bedroom. The separation distance between Block 1 has been increased

from 3 metres to 5 metres. As part of the redesign, the fourth-floor terrace at the south-eastern corner has also been omitted.

- The potential impact on the daylight of No. 134 has been expertly assessed in a separate report submitted with the response by Digital Dimensions. It notes that overall light levels to the room will remain well in excess of the minimum recommended for room use. Furthermore, in relation to overshadowing, it is evident from the enclosed shadow diagram that Block 1 will not overshadow the private amenity space of No. 134 at the March equinox between 9 a.m. and 3 p.m.
- A separate report has been prepared by DFA Fire Safety Engineers and enclosed with response. This report confirms that the proposal is compliant with the relevant Code of Practice. Emergency vehicles will be able to park along the Harold's Cross frontage. The fire strategy only requires perimeter access for fire appliances.
- Landscape detailed drawings are also submitted which details the proposed surface treatment at the Harold's Cross frontage. It is proposed to install a retractable stainless-steel bollards to the front of No. 126 to prevent unauthorised parking.
- On foot of the revised drawings, the overall gross floor area of the development will decrease from 2,716 square metres to 2,609 square metres. However, the number of apartments will remain at 34 with an increase in the number of one-bedroomed units and a reduction in the number of two-bedroomed units. The mix remains compliant with the new Guidelines for Design Standards for New Apartments.
- The request for further information has resulted in a reduction of the number of car parking spaces by 1 to 29 spaces.
- The subsequent planning report prepared by Dublin City Council dated 7th May, 2019 assessed the further information submitted and it is concluded that the proposed development provides an appropriate design response, having regard to the constraints of the site and the design approach adequately considers the residential amenities of surrounding properties. On

this basis it is recommended that planning permission be granted for the proposed development.

6.0 Planning History

- 6.1. No history files are attached.
- 6.2. Relevant planning history is set out in the planner's report and is briefly summarised below.

Under **4791/03** planning permission was granted for the demolition of single-storey buildings to the rear of No. 126 Harold's Cross Road and the demolition of all outbuildings to the rear of 126-128 Harold's Cross Road with the construction of a new three to four storey building containing apartments, townhouses and office space.

Under **1293/02** outline planning permission was granted for the demolition of the existing warehouse and offices to the rear and the erection of a new three-storey block containing 9 two-bedroomed apartments and 2 one-bedroomed apartments and to rebuild No. 128 to provide an additional 2 one-bedroomed apartments.

7.0 Grounds of Appeal

- 7.1. The decision of Dublin City Council to issue notification to grant planning permission was the subject of a third-party appeal by Stephen Mason Architectural and Planning Services on behalf of Mr. Martin Ryan a landholder in the vicinity of the site. It is stated that Mr. Ryan owns approximately 600 square metres of land to the south-east of the subject site, comprising of an agglomeration of buildings including No. 130, 132 and 134 Harold's Cross Road all of which are located on the south-eastern corner of the site. It is argued that the appellant is most affected by the proposed development. However, it is noted that there were no consultations with the neighbours by the applicant prior to the lodgement of the submission. It is also argued that the proposed development is located in a prominent sensitive site and constitutes a total underdevelopment and utilisation of such an important site.
- 7.2. The existing façade at No. 128 adjoins the appellant's property and is to be demolished as part of the proposed development. The appellant requires

confirmation that there will be no damage to his property as a result of the demolition. Furthermore, the proposed basement is being constructed less than 3 metres from the shared boundary. Again, confirmation is required that there will be no damage to any of Mr. Ryan's property as a result of the excavation and construction of the basement. Similar confirmations are required in relation to the construction of the car lift. Concerns are also expressed that construction traffic, including machinery and trucks for carrying raw material, will have to pass the front of the appellant's property and it is not clear as to how the construction traffic will access the development site.

7.3. Reference is made to the Daylight Impact Report submitted with the further information request and the conclusion that the bedroom at No. 134 will still receive good daylight. It is submitted that the reduction in natural light and shadowing to the residential development will not be known until the building is constructed. It is also suggested that the calculation of natural light is not an exact science and 'figures can be adjusted in order to provide the answers required'. It is suggested that the new building currently planned is likely to be overbearing when viewed from the window to the residential property. It is not altogether clear whether the setback of Block 1 by way of the additional information submission was predicated on achieving the appropriate daylight requirement on the bedroom window of the residential property to the south-east, or was the increased separation distance merely a token gesture. Either way it is considered that the block proposed will result in an overbearing impact. The wording used in the daylight analysis submitted with the further information is ambiguous and does not provide the appellant with confidence that the proposal will not adversely impact on surrounding residential amenities including the appellant's property. As currently planned, the proposed height for Block 1 exceeds the height of the buildings fronting onto Harold's Cross Road by c.4.65 metres. Furthermore, as a consequence of Condition No. 5 attached to the planning authority's submission, the differential in height could be further increased.

7.4. Concerns are also expressed in relation to traffic and parking, and it noted that the parking spaces are provided below the required number. Parking problems will be exacerbated by the demands for visitor parking associated with the development and the requirement to provide for deliveries. The reduction in the number of car parking spaces below the development plan standards is a concern as parking is limited in

the area and the area including Harold's Cross Road, is subject to heavy traffic movements.

- 7.5. The report states that ingress and egress to the car lifts will be via left turn only therefore any car wishing to park in the basement will have to pass the front of the appellant's property. However, it is not clear how the traffic management system proposed will be controlled. It is also argued that there is not sufficient space to facilitate queuing cars.
- 7.6. It is also noted that there is a discrepancy between documents submitted, as the site plan indicates that one lift is identified for ingress while the other is identified for egress. Whereas the engineer's report submitted indicates that one lift is identified for ingress and the other is identified for ingress and egress. It is stated that the traffic management requires clarification and further consideration. There are no details provided in the case where the car lifts will breakdown.
- 7.7. In relation to flooding, it is noted that there is no definitive start date for the proposed River Poddle flood alleviation scheme which is currently progressing towards the identification of options. It is therefore argued that the development is premature until such time as development works to reduce further flooding are completed. The condition attached by the Planning Authority to raise the basement level in order to achieve the minimum requirements of the Engineering Department will exacerbate the overbearing impact arising from the development.
- 7.8. During the construction phase, the co-operation of the developer is necessary in order to safeguard the amenities of occupants of adjoining properties including the occupants of the appellant's property.
- 7.9. With regard to the issue of Japanese Knotweed, it is recommended that an up to date survey is carried out as this aggressive, destructive and invasive plant has probably spread. A detailed management plan should be provided to remove the plant and contaminated soil. It is stated that the plant has spread into the appellant's site and has caused damage to the appellant's property.

8.0 Appeal Responses

- 8.1. Dublin City Council has not submitted a response to the grounds of appeal

8.2. Applicant's Response to the Grounds of Appeal

- 8.2.1. A response on behalf of the applicant was submitted by Simon Clear and Associates.
- 8.2.2. In relation to public consultation it is stated that a public consultation meeting was held in the afternoon of the 29th March, 2019 and it was well attended by all immediate neighbours with the exception of the appellant or his agent. The appellant's agent acknowledged the receipt of the invitation by e-mail. It is further stated that two separate meetings took place between the appellant's agent and the applicants in relation to the development.
- 8.2.3. With regard to potential damage to the appellant's property during the demolition and construction phase, it is suggested that boundary issues are not matters within the remit that can be addressed by An Bord Pleanála in the context of the appeal. Furthermore, it is normally a condition of any grant of planning permission that a construction and demolition management plan be included and this was imposed by Dublin City Council and An Bord Pleanála are invited to incorporate a similar condition should planning permission be forthcoming.
- 8.2.4. With regard to daylight and overshadowing, it is suggested that the appellant's agent is incorrect in suggesting that calculating natural light is an inexact science. On the contrary it is argued that calculating natural light in a three-dimensional model is in accordance with BRE criteria and is an exact procedure. The appellant expresses particular concern in relation to the bedroom at No. 134 which is closest to the boundary. It is noted that this bedroom has two sources of natural light, a vertical wall window and a rooflight providing a light and sky component. It is noted that both windows serve a bedroom which requires less light than a living room. The vertical window will not be substantially deprived of natural light and ventilation will be unaffected. A rooflight is an excellent source of light to any room.
- 8.2.5. In relation to overlooking, Block 1 is designed such that there is no capability of overlooking from the windows into the adjoining property from the dining area of apartment 1 on each floor. Therefore, no issue of overlooking occurs in relation to the adjoining dwellings on Harold's Cross Road.
- 8.2.6. In relation to car parking, it is stated that the Dublin City Development Plan sets a maximum provision for car parking. The requirements of Smarter Travel and other

government initiatives seek to reduce the provision of car parking in urban and suburban areas particularly those most well served by public transport.

- 8.2.7. With regard to access to the car lift, it is stated that there is a distance of 3.76 metres between the front of Block 2 and the back of the public footpath. Furthermore, within the frame of the building there is a full-length car entrance between entrance of the building line and the entrance to the car lift. This provides sufficient distance for a car waiting to enter the car lift which is clear of the public footpath.
- 8.2.8. Furthermore, as the Parking Strategy Document submitted with the application sets out, in order to ensure that impacts on the local road network are kept to a minimum, vehicles accessing the basement car park will have priority over vehicles leaving the basement car park. This will eliminate queuing on Harold's Cross Road. In the unlikely event of a surge of vehicles trying to gain entry into the basement car park at the same time, two vehicles can access the car lifts and the stacking space will cater for a maximum of four vehicles outside the car lifts - thus six cars can be catered for at any one time. The report from the Transportation Planning Section of Dublin City Council dated 15th February, 2019 confirms their satisfaction with the proposed parking and queuing arrangements for the car lift.
- 8.2.9. In relation to drainage the issues raised have been fully addressed and considered by Dublin City Council's Drainage Section which is the competent authority on such issues. Condition 5(e) confirms that the Flood Risk Assessment by JBA consulting is acceptable in principle with full details to be agreed prior to the commencement of construction.
- 8.2.10. With regard to the issue of Knotweed, it is stated that the only area identified where the species is growing on site is at the northern end which is remote from the appellant's property. Therefore, there is nothing to support the allegation that Knotweed from the site has spread to the appellant's site.
- 8.2.11. In conclusion, it is stated that there is nothing substantial from the planning perspective in the grounds of appeal that would warrant a decision to refuse planning permission.

9.0 Planning Policy Context

9.1. Development Plan Provision

- 9.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022.
- 9.1.2. The subject site is governed by the zoning objective Z1 “*to protect, provide and improve residential amenities*”. There are no protected structures on the subject site or protected structures in the immediate vicinity of the site. The subject site is also located within a Zone of Archaeological Interest.
- 9.1.3. Chapter 5 of the development plan specifically relates to Quality Housing. It seeks 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 successfully integrate with the character of the surrounding area.
- 9.1.4. QH8 seeks to promote the sustainable development of vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and character of the area.
- 9.1.5. QH18 seeks to promote the provision of high-quality apartments with 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.
- 9.1.6. QH19 seeks to promote the optimum quality and supply of apartments for a range of needs and aspirations including households with children in attractive sustainable mixed income/mixed use neighbourhoods supported by appropriate social and other infrastructure.
- 9.1.7. Chapter 16 of the development plan sets out details of development management guidelines in relation to aspect natural lighting and ventilation and sunlight penetration. It notes that living rooms and bedrooms shall not be lit solely by rooflights and all habitable rooms must be naturally ventilated and lit. Development shall be guided by the Principles of Site Layout Planning for Daylight and Sunlight, a

Guide to Good Practice (BRE 2011). It is stated that the minimum number of dual aspect apartments that may be provided in any single apartment scheme shall be 15%.

9.2. National Planning Framework

- 9.2.1. Section 2.6 of the NPF sets out policies which seek to secure compact and sustainable growth. It notes that a preferred approach for development would be compact development that focuses on reusing previously developed brownfield land building up infill sites which may not have been built on before and either reusing or redeveloping existing sites and buildings.
- 9.2.2. National Policy Objective 3(a) seeks to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements.

9.3. Sustainable Urban Housing Design Guidelines for New Apartments, March 2018.

- 9.3.1. In relation to new apartments development, Specific Planning Policy Requirement no. 1 states that apartment developments may include up to 50% one-bedroom or studio type units with no more than 20 to 25% of the total proposed development as studios.
- 9.3.2. Specific Planning Policy Requirement 2 states that for all building refurbishment schemes on sites of any size, or urban infill schemes in sites of up to 0.25 hectares where between 10 and 49 residential units are proposed, the flexible dwelling mix provision for the first 9 units may be carried forward and the parameters set out in SPPR1 shall apply from the 10th residential unit to the 49th.
- 9.3.3. Specific planning policy requirement 3 sets out minimum apartment floor area.
- 9.3.4. Studio apartment (1 person) - 37 square metres
- 9.3.5. One bedroomed apartment (2 persons) - 45 square metres
- 9.3.6. Two bedroomed apartment (4 persons) - 73 square metres
- 9.3.7. The Guidelines also set out minimum standards for internal storage and private amenity space, communal facilities, refuse storage and communal amenity space.

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 the communal amenity space throughout the year. Roof gardens may also be provided but must be accessible to resident's subject to requirements such as a safe access by children.

- 9.3.8. In relation to car parking the Guidelines state that the quantum of car parking and the requirement for any such provision for apartment developments will vary having regard to the types of location in cities and towns that may be suitable for apartment development broadly based on proximity and accessibility criteria. In larger scale and higher density development comprising wholly of apartments in more central locations, which are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced, or wholly eliminated in certain circumstances.

10.0 EIA Screening Assessment

I note that an EIA Screening Report was submitted with the application and I would agree with the conclusions contained therein. Having regard to the nature of the development comprising of 34 apartments in an urban area it is considered that the proposal is less than 10% of the required number of units to trigger a mandatory EIAR. It is considered that, having regard to the size and scale of the development, that there is no real likelihood of significant effects on the environment and the need for an environmental impact assessment therefore can be excluded by way of preliminary examination.

11.0 Planning Assessment

I have read the entire contents of the file, visited the site in question and had particular regard to the issues raised in the grounds of appeal. I consider the pertinent issues in determining the current application and appeal before the Board are as follows:

- Principle of Development

- Lack of Consultation
- Underdevelopment of the Site
- Lack of Integrated Plan for the Area
- Construction Impacts
- Reduction in Daylight and Overlooking
- Parking and Access Issues
- Flooding
- Other Issues

11.1. Principle of Development

- 11.1.1. The Board will note that the subject site is governed by the zoning objective Z1; “*to protect, provide and improve residential amenities*”. Residential development is therefore acceptable in principle on the subject site. The Board will also be aware of the various statements contained in the National Planning Framework which seeks to provide more compact development emphasising the need to reuse previously developed brownfield land, building up infill sites, and redeveloping existing sites. The Framework Plan highlights the need to develop such urban infill sites, particularly sites in close proximity to city centres and along high-quality public transport routes at more sustainable densities.
- 11.1.2. The proposed development before the Board also complies with the numerous standards set out in the development plan and in respect of communal open space, unit size and the provision of an appropriate type of unit mix, single / dual aspect ratio. The proposal also complies with the Specific Planning Policy Requirements set out under the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities.
- 11.1.3. In principle therefore, the development of the subject site for apartment development is accepted in principle, subject to qualitative safeguards and these qualitative safeguards as well as other specific issues raised in the grounds of appeal are assessed under separate headings below.

11.2. Lack of Consultation

- 11.2.1. The grounds of appeal argue that the appellant was not properly consulted during the course of the planning application with regard to the proposals. The Board will be aware that there is no specific provision, other than the statutory requirements set out in the Planning Acts with regard to public consultation. The applicant published public notices on site and in the newspaper in accordance with the requirements set out in the Act and Regulations. The applicant therefore has complied with the statutory obligations with regard to public consultation.
- 11.2.2. Furthermore, the applicant in his response to the grounds of appeal, has indicated that in addition to the statutory requirements set out in the Act, the applicant also embarked on a consultation/information afternoon with residents in the area. The appeal response further states that he held meetings with the appellant's agents with regard to the proposal. It therefore appears that the applicant has in fact, gone beyond the minimum requirements set out in the Act, with regard to public consultation.

11.3. Underdevelopment of the Site

- 11.3.1. The appeal argues that the proposal constitutes an underdevelopment of a landmark site and a gateway point within the city. The extent to which the site constitutes a 'landmark development site' within the city is in my view debatable. It is not located on a prominent arterial route adjacent to the canal or major intersection, that might be the case with other prominent landmark sites. The site is located mid-way along Harolds Cross Road and forms part of a row of terraced buildings.
- 11.3.2. Nevertheless, it cannot be reasonably argued in my view that the development constitutes an underdevelopment of the site. 'The Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities' suggest that there should be no upper limit to density on City Centre sites subject to qualitative safeguards. In areas close to public transport corridors minimum densities of 50 units per hectare should be applied subject to those safeguards. The density proposed in the current application is approximately 220 units per hectare which cannot be considered low density in accordance with the standards set out in the Guidelines and the prevailing standards in the area. Furthermore, an increase in density would inevitably result in larger buildings which in turn could have the potential to increase

adverse impact on surrounding residential amenity including increased levels of being overbearing, overshadowing and overlooking. These very issues are raised in the grounds of appeal as concerns by the appellant.

11.4. Lack of Integrated Plan for the Area

11.4.1. According to the Dublin City Development Plan there appears to be no local objective to prepare or adopt a local integrated area plan or other such plan in which the development is proposed to be located. In the absence of a specific objective to prepare such a plan, it would in my view, be entirely inappropriate to refuse planning permission on the basis that no such plan exists.

11.5. Construction Impacts

11.5.1. Concerns are expressed that the construction phase could damage the structural integrity of the buildings on the appellant's property. There is no evidence to suggest that this would be the case. The only structure to be demolished which is currently contiguous to the appellant's site is the front façade of No. 128, which can be readily dismantled without impacting on the integrity of adjoining buildings.

11.5.2. With regard to the construction and excavation works to be carried out as part of the proposed development, including the provision of a basement car park, such excavation works are ubiquitous in urban areas and various methodologies and method statements can be employed to ensure that the structural integrity of contiguous and adjacent structures to site boundaries are not impacted upon. The applicant has submitted as part of the application, a Draft Construction Management Plan prepared by DCOM Safety Consultants. The preparation and agreement of a construction and management plan can be made a condition of any grant of planning permission issued by the Board.

11.6. Reduction in Daylight and Overlooking

11.6.1. The grounds of appeal express concerns that the size and scale of Block 1 will have an adverse impact on the amenity of the appellant's buildings particularly No. 134 Harold's Cross Road through overshadowing and being overbearing in nature.

11.6.2. Any impact arising in terms of residential amenity must be balanced against the need to develop brownfield infill sites at higher and more sustainable densities in accordance with nationally adopted strategies. Such strategies obviously have the potential to increase levels of overshadowing and overlooking on adjoining property particularly in tightly grained urban infill areas. Where increased levels of overshadowing/overlooking result from newer higher density development the critical issue is whether or not such impacts can be deemed to be acceptable or whether such impacts are deemed to be so material, that they would have an unacceptable impact on adjoining amenities. Significant concerns are expressed in the grounds of appeal with regard to the diminishment of daylight penetration into a first-floor bedroom at No. 134 which adjoins the site. This was also a concern for Dublin City Council in its initial assessment and prompted the Council to request further information on this matter. A shadow casting analysis and daylight penetration analysis was submitted as part of the applicant's response. The report acknowledges that the BRE Guide is not suitable as a "rigid application for all developments". However, because the bedroom in question is served by two windows (one of the western elevation and an additional rooflight) it is concluded that there will be an impact on light levels within the bedroom however, this will be compensated by the rooflight serving the room. While there will be some diminishment in light penetration, the report concludes that the level of diminishment is acceptable. As already referred to above, a compromise is required between achieving the wider strategic objectives of developing brownfield sites and a more sustainable density and ensuring that any consequential impact on amenity is deemed to be also acceptable. A slight diminishment in daylight penetration is in my view an acceptable trade-off between a slight adverse impact on adjoining residential amenity and the need to develop the site at more sustainable densities.

11.6.3. In terms of overlooking, I note that the heading in the grounds of appeal makes reference to overlooking however the only reference to overlooking in the actual grounds of appeal is the requirement to adhere to a 22 metre separation distance as set out in the development plan. There was no direct overlooking between No. 134 and Block No. 1. At the closest point between the two buildings, there are no windows directly overlooking the appellant's site. The separation distance between external terraces on the eastern elevation of Block 1 and the rear balcony of No. 130

Harold's Cross Road is in the region of 19 to 20 metres which is only marginally below the stipulated guideline of 22 metres referred to in both the development plan and the grounds of appeal. The development plan however states that the above standard "*may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacies of adjoining occupiers*". I consider that the layout proposed has incorporated all practical design options to minimise the potential impact in terms of overlooking and therefore the impact in my considered opinion are acceptable.

11.6.4. In terms of the proposed buildings being overbearing, I acknowledge that the separation distance between Block 1 and No. 134 is modest at approximately 5 metres. However, the block in question is only 5 storeys in height rising to approximately 15 metres above ground level. Furthermore, the top penthouse level has been setback which would further reduce the overbearing impact. The general fall off in ground levels to the rear of the site will also reduce the perceived dominance of the Block. The arguments set out regarding the need to develop brownfield sites in urban areas at more sustainable densities referred to above is equally valid when assessing the impact on amenity through the potential for overbearing in terms of size and scale of building. There is a requirement to develop at higher densities and this inevitably will result in higher, larger buildings. However, the provision of a five-storey building at the rear of the site, on a lower ground level with a set-back top floor, in my view constitutes a reasonable balance between achieving these wider strategic requirements on developing sites at higher densities and having acceptable impact on adjoining amenity. The size and scale of the development in this context is therefore in my view acceptable.

11.7. Parking and Access Issues

11.7.1. The grounds of appeal argue that insufficient car parking has been provided as part of the scheme and that access to the car parking area via the car lifts will result in excessive queuing on the public roadway which will give rise to disruption of traffic. With regard to car parking provision, the applicant in his response to the grounds of appeal correctly in my opinion, points out that the car parking standards set out in the development plan constitute the maxima car parking permitted.

- 11.7.2. Policy MT18 of the development plan seeks to encourage new ways of addressing the parking needs of residents (such as car clubs) to reduce the requirement for car parking. Section 16.38 of the same plan states in relation to residential car parking that “car parking standards at the maximum in nature and may be reduced if specific, mainly inner-city locations where it is demonstrated that other modes of transport are sufficient for the needs of residents”.
- 11.7.3. Furthermore, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities state that in larger scale high density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.
- 11.7.4. It is therefore evident that current policy seeks to reduce residential parking in new schemes where practical. The subject site is proximate to the city centre and well served by public transport being located on a major radial route to the city centre. On this basis, I consider the provision of 29 spaces for 34 apartments to be acceptable.
- 11.7.5. Concerns were also expressed in relation to the access and egress arrangements and in particular the queuing arrangements proposed for the car lifts. The provision of 29 underground spaces would not generate significant levels of trip generation to and from the subject site. However, it is acknowledged that there is some potential for queuing to take place particularly in the PM peak when most cars will be seeking to access the apartment block. It is estimated that eight arrivals will take place at the PM trip rate based on TRICS data. The report submitted with the planning application indicates that off road queuing is available for six vehicles which is over 20% of the capacity of the car park. On the basis of the information submitted it is extremely unlikely that the proposal will give rise to significant on road queuing on a regular basis, if at all. The impact on the local road network will not be significant.

11.8. **Flooding**

- 11.8.1. The application was accompanied by a flood risk assessment. It acknowledges that the site is at risk from fluvial flooding event due to the close proximity of the River Poddle. It is noted that a significant flooding event occurred at this location in 2011. The flood events on site were attributed to a blockage in the culvert downstream which exacerbated the flood event upstream in the vicinity of the site. The report also

notes that the River Poddle Flood Alleviation Scheme has been initiated and is currently at public consultation stage. The report states that the flood alleviation scheme is likely to be completed by 2022 which will provide adequate flood attenuation measures to prohibit flooding in the area. Furthermore, the proposal incorporates a storm water system which has been designed in accordance with the principles of sustainable urban drainage systems. It involves the incorporation of a hydrobrake system which will restrict discharges from the attenuation tank at basement level to a maximum discharge of 2 litres per second. All the above measures in my view will ensure that the proposed development will not exacerbate flood risk in the area.

11.9. Other Issues

- 11.9.1. The final issue raised in the grounds of appeal relates to the management of invasive species. The grounds of appeal note that it is essential that this aggressive, invasive plant is destroyed and that the work is carried out by a specialist contractor. The applicant has indicated that this invasive species on site will be appropriately removed and disposed of by a licensed contractor and this issue can be adequately addressed by way of condition.

12.0 Conclusions and Recommendation

Arising from my assessment above, I consider the proposed development to be in accordance with the proper planning and sustainable development of the area and for this reason I recommend that planning permission be granted for this scheme.

13.0 Appropriate Assessment

I note that an appropriate assessment screening report was submitted with the application. It notes that the nearest Natura 2000 sites are located in South Dublin Bay a distance of approximately 4.6 kilometres away. The report reasonably in my opinion concludes that there is no likelihood of any significant effects on Natura 2000 sites arising from the proposed development. Having regard to the nature and scale of the proposed development and the nature of the receiving environment together

with the 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 and projects on a European site.

14.0 Decision

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

15.0 Reasons and Considerations

Having regard to the Z1 residential zoning objective for the site it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

16.0 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 additional information received by the planning authority on the 10th day of April, 2019, 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 the 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. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. 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.

4. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.”

Reason: In the Interest of orderly development.

5. 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.

4. 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.

5. 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.

6. 34 bicycle parking spaces shall be provided within the scheme. Details of the layout and demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development in the interest of sustainable transportation.

7. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

9. Site development and building works shall be carried out only between the hours of 0700 to 1800 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.

10. The site development and construction works shall be carried out in such a manner so as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

11. 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.

12. The naming and numbering of the scheme shall be agreed in writing with the planning authority prior to the occupation of the dwelling.

Reason: In the interest of orderly street numbering.

13. A detailed management plan for the eradication of Japanese Knotweed on site shall be agreed in writing with the planning authority prior to commencement of development. Any removal of this invasive species shall be transported under licence to an appropriate licensed receiving facility; details of which shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: To ensure the eradication of this non-native invasive species.

15. The developer shall pay to the planning authority a financial contribution of € (167,530 One hundred and sixty seven thousand euro) 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. The application of any indexation required by this condition 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.

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.

16. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

Paul Caprani,
Senior Planning Inspector.

29th July, 2019.