



An
Bord
Pleanála

Inspector's Report

ABP-305695-19

Development	Demolition of buildings on site, construction of a mixed-use development of retail, offices and 91 dwelling units.
Location	Classic Cinema Site, at Harold's Cross Road, Dublin 6W.
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3026/19
Applicant(s)	Garvagh Homes Ltd
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	(1) Patricia McCormack (2) Harold's Cross Village Community Council
Date of Site Inspection	24 th January 2020

Inspector

Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.5030 hectares, is located on the western side of Harold's Cross Road to the south of Dublin City Centre. The appeal site is split into two portions. The portion to the front of the site along Harold's Cross Road is a vacant plot formerly the site of a since demolished cinema building. To the rear of this part of the site is large warehouse structure and yard which is currently vacant. Adjoining properties include a part two-storey and part three-storey building to the north along Harold's Cross Road consisting of office use at ground floor with residential above. To the rear of this are two no. two-storey dwellings (perpendicular to the northern boundary) called Ryan's Cottages and to the rear of the cottages is a vehicle repair garage which adjoins the northern boundary of the site. To the south is a terrace of two-storey dwellings fronting Harold's Cross Road and to the rear of such are two-storey terraced dwellings that front onto Kenilworth Park and back onto the southern boundary of the site. To the west are existing dwellings along Wilfrid Road, which are two-storey terraced dwellings, which back onto the site. There is an existing pedestrian laneway running along the western boundary of the site and the rear boundaries of the existing dwellings (accessed from Kenilworth Park).

2.0 Proposed Development

2.1. Permission is sought for the demolition of remaining buildings on site and the construction of a mixed-use development of retail (177sqm), offices (199sqm) and 91 dwelling units (4 studios, 29 one bed units and 58 two bed units) over an underground car parking area for 93 cars, plant areas and bin storage facilities. The form of development provides for three blocks of development above the underground car park. The front block next to the street (5 storeys in height) will contain retail use and an ESB substation at ground level, offices at first floor level and 29 dwelling units in the remainder of the block. The central block (5 storeys in height) will have 32 dwelling units. And the block to the rear (5 storeys in height) will have 20 dwelling units. The space in between the blocks will contain landscaped communal open space and bike stores for residents.

2.2. The proposal was amended in response to further information with provision of 1.8m high screens on balconies with side openings and alterations of windows facing the

properties along Wilfrid Road with the provision of both translucent glass panels and angled clear panels. The proposal was also amended to provide a shower for the office accommodation and 6 addition bicycle parking spaces. The gates to the basement area were relocated further down the access ramp and access to the service lane is to be controlled by retractable bollards.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 14 conditions. Of note are the following conditions...

Condition no. 10: A number of requirements by the Transportation Planning Division including measures to ensure pedestrian priority at the entrance point, submission of a mobility management plan and allocation of parking spaces on the basis of one per apartment unit.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (10/07/19): Further information required including measures to deal with potential overlooking from Block C into the gardens associated Wilfrid Terrace, demonstration of compliance with the requirements for 10% of the site area for public open space and the requirements of Transportation Section.

Planning report (20/09/19): The proposed development considered to be acceptable in the context of the visual amenities of the area, the amenities of adjoining properties and in relation to traffic safety and convenience. A grant of permission was recommended based on the conditions outlined above.

3.2.2. Other Technical Reports

Drainage Division (02/07/19): No objection subject to conditions.

Transportation (04/07/19): Further information required including details to ensure no queuing at the proposed vehicular access, details of measures to restrict access to

service lane to service vehicles only, a letter from the National Transport Planning Authority agreeing relocation of the existing bus shelter to the front of the site and proposals for bicycle parking and shower facilities for the retail and office use.

Transportation (13/09/19): No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1 None.

3.4. Third Party Observations

3.4.1 9 no. submission were received, the issues raised in such can be summarised as follows...

- Inappropriate bulk and scale, overdevelopment of the site, proximity to adjoining residential properties, overlooking and overshadowing, poor quality mix of residential units, traffic impact, impact on streetscape.

4.0 Planning History

4.1 4686/05: Permission refused for demolition of an existing building and construction of a four-storey building over basement car park consisting of 18 no. apartments. Refused based on two reasons...

1. Having regard to the serious deficiency in both public and private open space, and parking, it is considered that the proposed development would constitute overdevelopment of the site and would seriously injure the residential amenities of the future occupants of the apartments and also of adjoining properties. The proposed development fails to meet the standards set down in the Dublin City Development Plan, 2005-2011, paragraphs 15.9.6, 15.9.7, and 15.35.0 and would thereby be contrary to the proper planning and sustainable development of the area.

2. The proposed development would result in an unacceptable level of overlooking to adjoining properties and would seriously injure the amenities of these properties.

The proposed development would thereby be contrary to the proper planning and sustainable development of the area.

On a site to the north...

- 4.2 4729/18: Permission granted for demolition of all buildings on site including the 3 storey public house and single storey retail units; Construction of a 3-6 storey over basement mixed use building to accommodate a ground floor retail unit (c. 339m²) fronting Harold's Cross Road and 74 no. apartments at ground to fifth floors with associated balconies, comprising 5 no. studios, 29 no. 1-bed, 31 no. 2-bed and 9 no. 3-bed units; Ramped vehicular access from Harold's Cross Road; Basement level accommodating 35 no. car parking space, bicycle parking, refuse stores and plant rooms; Landscaping, boundary treatments, retail signage, bicycle parking and all associated site at no. 280-288 Harold's Cross Road.

5.0 Policy Context

5.1. Development Plan

- 5.1.1 The relevant development Plan is the Dublin City development Plan 2016-2022. The appeal site is zoned Z4 with a stated objective 'to provide for an improved mixed services facilities'.

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.

QH23: To discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to promote sustainable development by making efficient use of scarce urban land.

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting
2. Re-instatement of missing architectural detail or other important features
3. Improvement of open spaces and the wider public realm, and re-instatement

of historic routes and characteristic plot patterns

4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area

5. The repair and retention of shop- and pub-fronts of architectural interest.

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 supersede 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

5.2.1 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

5.3.1 None in the vicinity.

5.4 EIA Screening

5.4.1 Having regard to nature of the development comprising of the construction of a mixed use development with retail, office use and 91 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 Patricia McCormack, 30 Kenilworth Park, Harold's Cross, Dublin 6W, D6W N670. The grounds of appeal are as follows...

- The proximity of the development (in particular Block C) to rear gardens in Kenilworth Park would result in overlooking/loss of privacy and light.
- The proposal is overdevelopment of the site and not in keeping with surrounding properties, would be overbearing and impact on existing amenities.
- A balcony on the south west of Block C directly overlooks the gardens in Kenilworth Park.
- The residential mix is poor with an over emphasis on smaller units.
- If permission is granted it is required that there be a further setback of Block from the rear of Kenilworth Park, amendment of the balcony on the south west of Block C and reduction in the permitted height of Block C to 3 storeys with setback of upper floor.

6.1.2 A third party appeal has been lodged by the Harold's Cross Village Community Council. The grounds of appeal are as follows...

- The appellant note that a recently permitted development at no.s 280-288 Harold's Cross Road under ref no. 4729/18 set a relevant precedent and should be considered in the context of this site in the interests of consistency.
- The appellants' note concerns regarding the impact bulk, scale and proximity of the development (in particular Block C) relative to the rear gardens of the properties in Kenilworth Park and Wilfrid Road with the proposal having an overbearing impact and consequently a negative impact on residential amenity. It is noted that the measures submitted in response further information were not sufficient to deal with concern raised regarding overlooking and the appellants refer to the development granted under ref no. 4729/18 and the amendments and measures implemented in to address similar concerns.
- The appellant notes that amendments should be made to the proposal including a greater setback of Block C from its western boundary and a reduced building height, the development granted under ref no. 4729/18 is a relevant consideration in the manner it is designed and laid out in the context of adjoining properties.
- The proposal is considered to be excessive in height in the context of the streetscape along Harold's Cross Road. The appellants' note that the development granted under ref no. 4729 was amended with a fifth floor level omitted due to PA concern regarding height and a maximum height of 15.25m permitted. It is noted that the current proposal exceeds the height permitted at 280-288 Harold's Cross Road and is excessive and will be incongruous at this location. The height of Block A should be reduced to a similar level as the permitted development and the height of Blocks B and C should be consistent with such.
- It is noted that the site is a transitional zoned due to being adjoining different zonings to the north and the west and that policy in relation to such requires

proposal that would not be detrimental of more environmentally sensitive zones such as the Z1 and Z2 residential zones adjoining the site.

6.2. Applicant Response

6.2.1 Response by the applicant, Garvagh Homes Ltd.

- It is noted that the Planning Authority's assessment dealt with all of the issues raised in the appeal submission during assessment of the application.
- It is noted that the focus of one of the appeal submissions on a permitted development on a site in vicinity is not relevant and that the proposal should be assessed on its merits. It is noted that the permitted development on the neighbouring site is inferior in quality to the proposal on the appeal site and that there is a greater degree of separation between the proposed development and adjoining dwellings than is the case in the permitted development referenced by one of the appellants.
- It is noted that neither of the appeal submissions provide any reason for overturning the decision with it noted that the proposal would be in accordance with Development Plan policy, acceptable in the context of the visual amenities of the area, the amenities of adjoining properties and traffic safety.

6.3. Planning Authority Response

6.3.1 No response.

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/height

Design, scale, and visual impact

Quality of design/residential amenity/development control objectives

Adjoining amenities

Car parking/traffic

Appropriate Assessment

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

7.2.1 The proposal entails the demolition of existing structures on site and the construction of a residential development consisting of a mixed use development with retail use (177sqm), office use (199sqm) and 91 apartment units in three five-storey blocks. The appeal site is zoned Z4 with a stated objective 'to provide for an improved mixed services facilities'. The provision of retail, office and residential development is consistent with the zoning objective of the site with all being identified as permissible uses within the Z4 zoning under development plan policy.

7.2.2 The proposal entails the demolition of an existing commercial structure and the site incorporates a vacant site. Policy objective QH23 of the City Development Plan states "to discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to promote sustainable development by making efficient use of scarce urban land". Streetscape, environmental and amenity considerations will be examined in the following sections of this report. The existing structure on site are not protected structures or any architectural heritage value. The proposal will promote sustainable development by making efficient use of scarce urban land and the site is located along a public transport corridor. Subject to the design, scale and impact on adjoining amenity being acceptable, the proposal is acceptable in the context of policy QH23.

7.3 Density/height:

7.3.1 The proposal provides for 91 units on a site with an area of 0.5030 hectares. This a density of 181 units per hectare. This represents a significant increase on prevailing

residential density in the area. Development Plan policy and national policy permit for increased densities along public transport corridors. The appeal site is located along a public transport corridor with an existing QBC running along Harold's Cross Road. The site immediately adjoins this route and with the nearest stop being along the road frontage of the site. In addition to such, the appeal site is in walking distance of a number of city centre amenities and cycling distance of the city centre. The location of the appeal site is an appropriate location for increased densities and based on the recommendations of the Guidelines on Sustainable Residential Development in Urban Areas 2009 density should not be below 50 units per hectare, which would be the case of existing residential development on the appeal site and in the surrounding area.

7.3.2 The density proposed is well above the minimum that would be permissible. As noted above the proposal for increased density is appropriate and there is no upper limit imposed by policy. Whether the density is appropriate at this location is tied to a number of facts, appropriateness of design and scale, visual impact, overall quality of the development and adjoining amenities. These aspects of the proposal are to be explored in the later sections of this report. Pending assessment of such factors the provision of increased densities on the appeal site is appropriate.

7.3.3 The proposal provides for three no. five-storey blocks with a ridge height above ground level of 17.8m. Chapter 16 of Development Plan policy relates to Development Standards and Section 16.7 relates to building heights. This section identifies locations where low, mid and taller building would be considered. The appeal site is located in an area that is deemed appropriate to facilitate low-rise (outer city) development, which is defined as up to 16m (commercial or residential). The recently adopted national policy in the form of 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. Although Development

Plan policy indicates heights of up to 16m, new national policy on building heights do allow for consideration of increased building heights. I would note that such would be subject to appropriateness of design and scale, visual impact, overall quality of the development and adjoining amenities. As with density I would note that these factors are to be explored in the following section of this report.

7.3.4 Development Plan policy does not permit a height above 16m and that the Plan would need to be reviewed and policy amended to have regard to the new national policy on building height. It is noted under SPPR3 that where “an applicant for planning permission sets out how a development proposal complies with the criteria above; and 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”.

7.4 Design scale, and visual impact:

7.4.1 The appeal submissions raise concerns regarding the overall design, scale and massing of the proposal in the context of the visual amenities of the area. The proposal is deemed to be excessive in height relative to the existing streetscape and character of development in the area. The proposed development is laid out in three separate blocks five-storey blocks. Block A is to the front of the site and provides a streetscape along the established building line on the inner edge of the footpath along Harold's Cross Road. Block B and C are located in the middle and rear of the site with an area of open space between each block. The blocks feature a flat roof profile with a light brick finish with metal cladding on the fourth floor of each block which are recessed relative to the four levels below. The documents submitted include architectural visualisations of the scheme from the vicinity of the site including from Harold's Cross Road, along Kenilworth Park and Wilfrid Road.

7.4.2 The proposal is at its most visible along Harold's Cross Road. The appeal site is located within the village where there is a variation in the type of development along the streetscape. The adjoining site to north east is occupied by a part two-storey part three-storey structure (office with residential above) and to the south west is a two-storey dwelling (part of terrace of similar dwellings). There is a variation in the height of structures in the vicinity between two, three and four-storeys (four storey structure to the north (no. 302) and a permission granted for a four-storey development further north at no.s 280-288 (ref no. 4729/18). I would consider that the architectural visualisations are sufficient to illustrate the visual impact of the proposed development. I would note that despite the proposal being an increased scale over existing development along Harold's Cross Road, the visual impact of the proposal from Harold's Cross Road is acceptable. The transition in scale is aided by the flat roof nature of the proposal, the setback at fourth floor level and mixture of external finishes including the proposal for a light coloured brick finish. I would be of the view that the overall visual impact of the proposal along Harold's Cross road is acceptable and provides for an active frontage within the village on a site that currently features a vacant site that is a significant gap in streetscape as well as featuring an unattractive warehouse structure. I am of the view that the proposal has a positive impact upon the visual amenities of the area and provides a strong streetscape and active frontage at this location.

7.4.3 The proposal would also be visible from the streets located to the south (Kenilworth Park) and west (Wilfrid Road) of the site. The level of visibility is less than along Harold's Cross Road as the site has no frontage along these streets with intervening development being two-storey dwellings. Views from the surrounding areas are partial views and such would be acceptable in the context of the visual amenities of the area. I would consider that this fact is demonstrated in the architectural visualisations submitted.

7.5 Quality of design/residential amenity/development control objectives:

7.5.1 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 and 73sqm for 1 and 2 bed apartment units respectively (SPPR3). All units proposed exceed the minimum standards and in a lot cases are well in excess of the minimum standards. 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.

7.5.2 The guidelines note that “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”. I would firstly note that the percentage of dual aspect apartments in the proposed/approved development is 61%, which is well in excess of the standards recommended by the guidelines.

7.5.3 The guidelines note that “where single aspect apartments are provided, the number of south facing units should be maximised, with west or east facing single aspect units also being acceptable. Living spaces in apartments should provide for direct sunlight for some part of the day. North facing single aspect apartments may be considered, where overlooking a significant amenity such as a public park, garden or formal space, or a water body or some other amenity feature. Particular care is needed where windows are located on lower floors that may be overshadowed by adjoining buildings”. I am satisfied that the proposal/approved development is compliant with the national guidelines in regards to orientation and quality of units.

- 7.5.4 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. The apartments also meet all relevant standards in relation of internal storage space, ceiling heights, room dimensions outlined in Appendix 1 of the guidelines.
- 7.5.5 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”.
- 7.5.6 The proposal provides for two areas of public open space, one between Block A and Block B and the other between Block B and Block C and a smaller area to the west of Block C. This total level of public open space is 891sqm which is in excess of the 10% of the site area (18% of site area). I would consider that such is of sufficient quality to service the residential amenity of future residents with the proposal is satisfactory in terms of the quantity and quality of public and private open space.

7.6 Adjoining Amenities:

7.6.1 The appeal site is adjoined by a number existing structures include a part two-storey and part three-storey building to the north along Harold's Cross Road consisting of office use at ground floor with residential above. To the rear of this existing structure is a vehicle repair garage which adjoins the northern boundary of the site. To the south is a terrace of two-storey dwellings fronting Harold's Cross Road and to the rear of such are two-storey terraced dwellings that front onto Kenilworth Park and back onto the southern boundary of the site. To the west are existing dwellings along Wilfrid Road, which are two-storey terraced dwellings, which back onto the site. There is an existing pedestrian laneway running along the western boundary of the site and the rear boundaries of the existing dwellings (accessed from Kenilworth Park). The appeal submission raised concerns regarding the impact of the proposal based on its overall scale and proximity to the rear of dwellings backing onto the site along Kenilworth Park and Wilfrid Road. Particular emphasis is placed on the impact of Block C.

7.6.2 The documents submitted include a Daylight/Sunlight Impact study. This study is carried out on the basis of the BRE guidance document, Site Layout Planning for Daylight and Sunlight (2011). The study includes an assessment of light levels of the existing windows at adjoining properties based on Vertical Sky Component (VSC). The study shows that the majority of existing windows on properties adjoining the sites will experience a decrease in light levels within the recommended standard of 0.8% of their former value. In a few cases the percentage loss is greater but not by a significant amount and in such cases there are dual aspect rooms with the window in question not being the only source of light. I am satisfied that the study submitted demonstrates that any loss of light level to existing windows would not be significant or detrimental to the amenities of adjoining properties.

7.6.3 A shadow analysis was also included with the recommended standard under the BRE guides being that at least half of a garden or amenity area should receive at least 2 hours of sunlight on March 21st. It is noted that there are 35 dwellings surrounding the site and that in majority of cases most are unaffected in regards to

overshadowing. It is noted there is a reduction in light levels in gardens of a number of properties with no. 2-8 Wilfrid Road and Ryan's Cottages identified. The level of reduction still leaves in excess of 50% of the gardens associated the properties along Wilfrid Road received 2 or more hours of sunlight on the 21st of March and being compliant with BRE guidelines. In the case of Ryan's Cottages the reduction in light levels is more significant with a reduction below 50%. It is noted that the percentage post development is better than the levels of light experienced when the former Classic Cinema building was in place which has been since demolished. I am satisfied that the detail scope of the Daylight/Sunlight Impact study is sufficient to assess the impact of the proposed development and that the proposal would be satisfactory in regards to impact in relation to overshadowing/loss of light at adjoining properties.

7.6.4 The appeal submission raise concerns regarding the overbearing impact of the proposal as well as overlooking particularly in relation to Block C. As noted above the issue of overshadowing or loss of light is not a concern. I am satisfied that there is adequate separation between the blocks and adjoining properties to the north and south. I would consider that the design and scale of the blocks has adequate regard to adjoining properties. Block C is stepped on its western elevation with the third and fourth floor recessed relative to floors below. I am satisfied that the proposal would not be overbearing relative to adjoining properties.

7.6.5 In relation to the issue of overlooking I would note that the urban context of the site is relevant. As noted above the appeal site is an appropriate location for higher densities and certainly much higher than the prevailing density in the area. The proposal provides for windows and balconies on both the southern elevation of the three blocks and the western elevation of Block C. I would consider that a level of overlooking in a built up urban context is acceptable an inevitable. I do not consider such a situation would diminish adjoining amenities to a severe degree. It is notable that in response to further information alterations were made to Block C including angled windows on the western elevation, part obscure glazing panels and 1.8m frosted glass screens on balconies. These amendments were part of the approved

development and do reduce overlooking from Block C to adjoining properties. Having regard to the alterations made and the urban context of site which is appropriate for higher densities, I would consider the proposal to be acceptable in the context of the amenities of adjoining properties.

7.7 Car parking/traffic safety:

7.7.1 The proposal provides for a vehicular access off Harold's Cross Road with access to a basement car parking level, which contains 93 car parking spaces. Car parking standards for new development is provided under Table 16.1 of the City Development Plan. The requirement for residential development (maximum standards) in Area 3 is 1.5 spaces per unit and for office and retail development it is 1 space per 75sqm GFA. The proposal provides for 93 spaces and, therefore in excess of the requirement under Development Plan policy. This gives a maximum requirement of 140 spaces. I would consider that given its location relative to the vicinity centre and existing level of public transport that the provision of 93 spaces is a reasonable level of parking provision and provides at least every residential unit with a parking space if necessary.

7.7.2 The proposal entails vehicular access onto Harold's Cross Road where the site has an existing entrance. The proposal includes vehicular entrance to the basement car park and a pedestrian/service access controlled with retractable bollards. I am satisfied based on the information submitted including a transportation report and the amendments made in response to further information that the proposal is satisfactory in the context of traffic safety. The site is also well serviced in terms of public transport and accessible in relation pedestrians/cyclists.

7.8 Appropriate Assessment:

7.8.1 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 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, and as amended by the further plans and particulars lodged with the application, and as amended by the further plans and particulars received on the 27th day of August 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 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. 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.

3. 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. The proposal submitted with the application, shall therefore, be amended as follows:

(a) the treatment of the footpath and where it adjoins and crosses the vehicular entrance shall be designed in accordance with the recommendation Design Manual for Urban Roads and Streets (DMURS).

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

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

4. 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.

5. 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.

6. 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.

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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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

27th January 2020