



An  
Bord  
Pleanála

## Inspector's Report ABP-307208-20.

### Development

Permission for the demolition of the existing building previously in use as a garage and car showroom and the construction of a residential development consisting of six floors over basement (seven floors in total). The new building will include a total of 43 units. There will be communal landscaped rooftop terrace, green roof. A total of 11 No. car parking and 88 No. bicycle spaces will be provided at basement level. The proposed development will also comprise of refuse storage, excavation and all other ancillary works.

### Location

153-155 Harold's Cross Road, Dublin 6W.

### Planning Authority

Dublin City Council.

### Planning Authority Reg. Ref.

2172/20.

### Applicant(s)

MG Motors Ltd.

### Type of Application

Permission.

**Planning Authority Decision**

Refuse permission.

**Type of Appeal**

First Party

**Appellant(s)**

MG Motors Ltd

**Observer(s)**

Harold's Cross Village Community  
Council.

Dairine Flanagan & Others

**Date of Site Inspection**

20/07/2020.

**Inspector**

A. Considine.

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## 1.0 Site Location and Description

- 1.1. The subject site is located approximately 2.5km to the south of Dublin City Centre and on the eastern side of Harold's Cross Road. The site lies adjacent to three and two storey dwellings to the north. Peggy Kelly's Pub lies immediately to the south of the subject site with the car park separating the two buildings. The Pub rises from single storey to two storey with DSIX Off Licence to the south rising to three storeys. The houses further south include a mix of two and three storey houses with a mix of red brick and plaster finishes. Work has commenced on the redevelopment of the St. Clare's Convent grounds further north of the subject site which includes apartment buildings.
- 1.2. To the east (rear) of the site, lies the former Harold's Cross Greyhound Stadium. This site is earmarked for the development of an educational campus. Access to the stadium is located immediately to the north of the existing building on the site and the three-storey house. This three-storey house is boarded up and unoccupied. Harold's Cross Park lies across the public road to the west of the site.
- 1.3. The existing building on the site comprises a garage / car showroom which is a flat roofed two storey structure to the elevation onto Harold's Cross Road, while the rear of the building is single storey in scale. This building occupies the full proposed development site. The site has a stated area of 0.0752ha. The stated floor area of the existing building to be demolished is indicated at 853.86m<sup>2</sup>.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the demolition of the existing building previously in use as a garage and car showroom and the construction of a residential development consisting of six floors over basement (seven floors in total) with a set-back at top floor at 153-155 Harold's Cross Road, Dublin 6W. The new building (with a total floor area of 3,970.64 sq.m) will include a total of 43 units (8 studio apartments, 12 one-bed apartments and 23 two-bed apartments). There will be communal landscaped rooftop terrace, green roof. A total of 11 No. car parking and 88 No. bicycle spaces will be provided at basement level. The proposed development will also comprise of refuse storage, excavation and all other ancillary works, all at 153-155 Harold's Cross Road, Dublin 6W.

2.2. The application included a number of supporting documents as follows;

- Plans, particulars and completed planning application form
- Cover letter
- Town Planning Report
- Transportation Assessment Report
- Civil Structural Report
- Design Statement
- Copy of Pre-Application Consultation meeting with Dublin City Council

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

The Planning Authority decided to refuse planning permission for the proposed development for the following stated reasons:

1. Having regard to the design, scale, mass and bulk of the proposal and the proximity of the development to adjoining properties, it is considered that the proposed development would constitute overdevelopment of the site and would have an excessively overbearing, overshadowing and overlooking effect on the adjoining properties. The proposed development fails to integrate or be compatible with the design and scale of adjoining buildings and as a result, would seriously injure the visual amenities of the streetscape and would have an adverse impact on the character of the area. The development would, therefore, by itself and by the precedent it would set for other development, seriously injure the amenities of property in the vicinity, would be contrary to the provisions of the Development Plan and would be contrary to the proper planning and sustainable development of the area.
2. It is considered that a number of apartments in the development would fail to provide for a sufficient level of amenity for proposed residents as set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018 and would therefore be contrary to

the stated provisions of Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

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

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

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The Planning Report concluded that while there is no objection in principle to the development of the site for residential purposes, the proposed development is not acceptable having regard to the proposed height and the prevailing building heights in the vicinity. It is further considered that the development would result in a visually obtrusive and incongruous introduction to this area, amongst other concerns relating to the impact on existing residential amenities. The report also notes that the applicant was advised during pre-application discussions that the proposed development was too high and extensive.

The planning officer recommends that permission be refused for the proposed development, for the 2 stated reasons. This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

#### 3.2.2. **Other Technical Reports**

**Waste Management Division:** Report provides recommended conditions.

**Drainage Division:** No objection subject to compliance with conditions.

**City Archaeologist:** Notes that the site is located within the Zone of Archaeological Constraint for the Recorded Monument DU018-050 (settlement) which is listed on the RMP and is subject to statutory protection. The report recommends that a condition of archaeological monitoring be attached to any grant of planning permission.

**Transportation Planning Division:** The report required the submission of further information in relation to the following:

1. demonstrate that the proposed access will not impact on the Core Bus Corridor or result in conflict with pedestrians and cyclists.
2. Submit details of the type of cycle parking stands proposed. Attention to be given to the clearance height available and the available manoeuvring space for using the cycle stands and cars.
3. Details on the servicing of the development including refuse collection is required. Proposals should include the location of the temporary waste storage area.
4. Concerns raised that the level of car parking could result in the over-spill of car parking onto the adjoining road network including footpath, bus and cycling lanes.

### 3.2.3. Prescribed Bodies

None.

### 3.2.4. Third Party Submissions

There are 2 no. third party objection/submissions noted on the planning authority file. The issues raised are summarised as follows:

- a) Flanagan Family, Peggy Kelly's Pub:
  - It is requested that Dublin City Council consider, and maintain, the existing visual amenity of the locality and the specific residential amenity of the adjacent properties.
  - Scale of the development and overbearing impact on existing adjacent properties, including the adjacent pub, in a low-rise area which has a maximum height of 16m.
  - Inadequate car parking provision.
  - Part of the site is located within a Zone of Archaeological Interest.
  - The proposed development does not have regard to the existing character of Harold's Cross Road.

- The development as proposed would be contrary to Ministerial guidelines in relation to urban residential development.
- The development contravenes the zoning objective of the site.
- The development constitutes an overdevelopment of the site.
- Roads and traffic issues.
- The objection submits an alternative layout for the development of the site.

It is requested that the development be refused.

b) Harold's Cross Village Community Council:

- Building height and form
- Relationship of ground floor to the street
- Residential amenity of proposed dwellings
- Development potential of adjoining sites
- Overdevelopment of the site.

## 4.0 Planning History

There is no recent planning history pertaining to the subject site.

**PA ref: 1584/92:** Permission refused to demolish portion of existing garage premises including residential first floor portion rebuilding and extending garage premises including new car showroom.

**PA ref: 0230/99:** Outline permission refused for the construction of new second floor offices to the front of the premises and construction of a new first floor workshop over the existing workshop at the rear. The reasons for refusal related to non-complying use as a motor repair / showroom under the zoning objective for the site and the development, by reason of its scale, height, design and bulk would be incongruous with the established pattern of development in the general area which is characterised by shallow street blocks with long rear gardens.

## 5.0 Policy and Context

### 5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

- 5.1.1. The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. Objective 3b seeks to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford. Objective 11 favours development which can encourage more people to live or work in existing settlements while Objective 27 seeks to prioritise walking and cycling accessibility to existing and proposed development.
- 5.1.2. The NPF includes a Chapter, No. 6 entitled ‘People, Homes and Communities’. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:
- National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.
  - National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.
- 5.1.3. National Planning Objective 13 provides that “in urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

**5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):**

5.2.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children’s children.

5.2.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

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

5.3.1. These statutory guidelines update and revise the 2015 Sustainable Urban Housing: Design Standards for New Apartments Guidelines. The objective is to build on the content of the 2015 apartment guidance and to update previous guidance in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government’s action programme on housing and homelessness Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines.

5.3.2. The primary aim of these guidelines is to promote sustainable urban housing, by ensuring that the design and layout of new apartments will provide satisfactory accommodation for a variety of household types and sizes – including families with children - over the medium to long term. These guidelines provide recommended minimum standards for:

- floor areas for different types of apartments,

- storage spaces,
- sizes for apartment balconies / patios, and
- room dimensions for certain rooms.

The appendix of the guidelines provides guidance in terms of recommended minimum floor areas and standards.

#### **5.4. Urban Development and Building Heights Guidelines for Planning Authorities December 2018.**

- 5.4.1. The guidelines encourage a more proactive and flexible approach in securing compact urban growth through a combination of both facilitating increased densities and heights, while also mindful of the quality of development and balancing the amenity and environmental considerations. Building height is identified as an important mechanism to delivering such compact urban growth and Specific Planning Policy Requirements (SPPRs) of the building height guidelines take precedence over any conflicting policies and objectives of the Dublin City Development Plan.

#### **5.5. Development Plan**

- 5.5.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The site is zoned R2 Zone Z1: Sustainable Residential Neighbourhoods in the Dublin City Development Plan 2016-2022 which seeks “To protect, provide and improve residential amenities”. The lands to the east (former Greyhound Stadium) and west (Harold’s Cross Park) of the site are zoned Z9: Amenity / Open Space Lands /Green Network in the Dublin City Development Plan 2016-2022 which seeks “To preserve, provide and improve recreational amenity and open space and green networks”.
- 5.5.2. In terms of Quality Housing and Sustainable Neighbourhoods, Section 2.3.3 of the Dublin City Development Plan 2016-2022 states that it is an objective of the council to create a quality compact city of mixed – tenure neighbourhoods, catering for a wide range of family types. The Development Plan also states that:

‘Requiring apartment schemes to have good local facilities, and that large schemes are phased to ensure support infrastructure is provided in tandem with residential development, will assist in achieving this key strategy. An emphasis on effective property management for both apartment and housing complexes will also improve the quality of residential development’.

- 5.5.3. Section 5.5.2 of the Dublin City Development Plan 2016-2022 encourages sustainable residential areas. The plan states that “building at higher densities makes more efficient use of land and energy resources, creating a consolidated urban form which fosters the development of compact neighbourhoods and a critical mass which contributes to the viability of economic, social, and transport infrastructure”.

It is the stated policy of Dublin City Council, **QH12** refers:

‘To promote more sustainable development through energy end-use efficiency, increasing the use of renewable energy, and improved energy performance of all new development throughout the city by requiring planning applications to be supported by information indicating how the proposal has been designed in accordance with the development standards set out in the Development Plan.’

- 5.5.4. In terms of Building Height, Section 16.7.2 of the Development Plan sets out 3 no. height category limits for the city, Low-rise, Mid-rise and High-rise. The subject site is located within the Outer City which is an area listed within the low – rise (up to 16m) height category. The plan includes a number of policies in relation to building height as follows:

**SC16:** To recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA).

**SC17:** To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, having regard to the criteria and principles set out in chapter 15 (guiding Principles) and Chapter 16 (development

standards). In particular, all new proposals must demonstrate sensitivity to the historic city centre, the river Liffey and quays, Trinity College, the cathedrals, Dublin Castle, the historic squares and the city canals, and to established residential areas, open recreation areas and civic spaces of local and citywide importance.

**SC18:** To promote a coordinated approach to the provision of tall buildings through local area plans, strategic development zones and the strategic development and regeneration areas principles, in order to prevent visual clutter or cumulative negative visual disruption of the skyline.”

5.5.5. In terms of Transportation and car parking, the site is located within Zone 3 which requires a maximum of 1.5 car parking space per dwelling, and 1 cycle space per unit.

5.5.6. In terms of Development Standards, the following sections of the Plan area relevant:

- Section 16.3.4 – Public Open Space – All Development. There is a 10% requirement specifically for all residential schemes as set out in Section 16.10.1
- Section 16.5 - Plot ratio 0.5-2.0
- Section 16.6 - Site Coverage 45% - 60%

## 5.6. Other Policy & Guidance Documents

- Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
- DEHLG and OPW Guidance ‘The Planning System and Flood Risk Management – Guidelines for Planning Authorities’ (2009).

## 5.7. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(site code 00210) and the South Dublin Bay and River Tolka Estuary SPA (site code 004024) which are located approx. 4.8km to the east of the site.

The Grand Canal pNHA lies approximately 600m to the north.

## 5.8. EIA Screening

Having regard to nature and scale of the development, together with the urban / built nature of the site, 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

This is a first-party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The issues raised are summarised as follows:

- The proposed development is entirely consistent with use zoning objective for the site.
- The pre-application meeting was held before the new Height Guidelines came into force. It is disappointing that the PA faults the proposal on the grounds of height.
- It is not accepted that the height proposed will impact the amenities of adjoining properties and the wider area. Given the context of the site, the opportunity for increased height is an option.
- The building immediately to the north of the access road to the greyhound stadium has been purchased by the Department of Education and Skills. It is to be demolished to provide a suitably wide access to the proposed school site – on the former greyhound stadium.
- There is no obligation to comply with plot widths elsewhere along Harold's Cross Road.
- There is no objection from the Transportation Division of DCC, who are generally favourable in terms of access, footpath, width, car parking, access to public transport etc.

- The impact on properties to the north was considered. The development will have no adverse overlooking or overbearing implications for these houses.
- With regard to issues raised in relation to the ground floor apartments to the front, it is submitted that the matter can be resolved by the Board imposing a condition that the two apartments be omitted and that a planning application be lodged in future seeking an alternative more active use.
- In terms of overlooking of the pub car park to the south, the applicant has submitted a previously accepted design solution to address this issue.
- The development is consistent with planning policy and guidelines.
- It is submitted that the proposal is a context-appropriate architectural response to the site's conditions with the aim to support and enhance its surroundings.
- While it is submitted that the originally proposed development is appropriate for the site, an amendment is submitted which sets back the 5<sup>th</sup> floor as well as the 6<sup>th</sup> floor to allow for a larger balcony and split roof garden with plant above.
- The above amendment would result in a 4 storey building presented to the street and reduce the number of apartments from 43 to 36 in total (allowing for the omission of the two ground floor apartments as well as 2 from the 4<sup>th</sup> floor and 3 from the fifth floor.
- The appeal also includes Screening for Appropriate Assessment.

The appeal concludes requesting that the Board grant permission for the development originally applied for. Alternatively, it is submitted that the Board could decide to grant permission for the amended proposals presented in the appeal. It is further requested that the Board, in the context of the shortage in housing supply in the Dublin Region, condition a suitable permission rather than require a resubmission, with the time delay that would involve.

## 6.2. Planning Authority Response

None.

### 6.3. Observations

There are 2 observations submitted in relation to this first party appeal. The issues raised in the observations reflect those as submitted to the Planning Authority during their assessment of the proposed development. The following is also relevant:

- Given the impact of the development on existing adjacent properties, it can be contended that the development is not in line with the zoning objective for the site.
- The plot ratio substantially exceeds the requirements set out in the development plan and the proposal is completely inappropriate, constituting overdevelopment.
- Issues remain in relation to car parking and construction impacts.
- The alternative design presented to the Board does not address the concerns of the PA and its impact to the properties to the north and south. The set back of the fifth floor does not limit the amount of overbearing that will be endured by adjacent properties.
- While welcoming a reduction in the building height as submitted in the first party appeal, concerns remain in relation to the visual impact of the development when viewed from the north.
- Concern is also raised in relation to the undetermined use of the ground floor unit and its potential relationship to the street, the residential amenity of the proposed dwellings, the development potential of adjoining sites and that the development continues to represent an overdevelopment of the site.

## 7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Compliance with National Guidelines & Standards
3. Visual & Residential Amenity Impacts
4. Roads & Traffic
5. Water Services
6. Other Issues
7. Appropriate Assessment

### 7.1. Principle of the development

- 7.1.1. Having regard to the location of the subject site, on serviced lands, zoned for residential purposes together with the proximity to public transport, retail, community and social facilities, it is reasonable to conclude that in principle, the development of the site for residential purposes is acceptable. The principle, however, is subject to all other planning considerations including issues relating to roads and traffic, visual and residential amenities, water services and other considerations.

### 7.2. Compliance with National Guidelines & Standards:

- 7.2.1. The subject site is located on lands zoned 'R2' Zone Z1: Sustainable Residential Neighbourhoods. It is the stated objective of this zoning 'to protect, provide and improve residential amenities'. Residential development is permitted in principle on such zoned lands. The site is located on a main arterial route into Dublin City Centre and is currently occupied by a car salesroom and garage which occupies the full site. I note the context of the site is changing given the recent grants of planning

permission for apartment developments in the vicinity of the site, including the redevelopment of St. Clare's Covent site and further developments on the opposite side of Harrold's Cross Park.

7.2.2. The development proposes 43 apartments to be constructed comprising studios, one and two bed units, all with balconies or roof terraces in a building rising to 6 storey in height. The building will use brick as the primary elevation treatment, with select render to the upper floors. The roof will include a landscaped roof garden, with an area of 259m<sup>2</sup> for use as a communal amenity. The 2 bed apartments are dual aspect while the studio and 1 beds are single aspect. Car parking will be provided within a basement car park providing a stated 11 spaces, 1 of which will be disabled space. Provision is also made for 88 bicycle parking spaces. The basement, accessed off Harrold's Cross Road via a ramp, will also include 19 storage units and a refuse store area.

7.2.3. The Board will note that the development relates to a site with an area of 0.0752ha (752m<sup>2</sup>) with a proposed a site coverage of 98% and plot ratio of 4.46:1. This equates to a density of approximately 572 units per hectare (43/0.0752). The mix of units originally proposed is 8 x Studios, 12 x 1 bedroom apartments and 23 x 2 bedroom apartments. In terms of the Development Plan standards, the following is relevant:

	<b>Proposed</b>	<b>Development Plan</b>
<b>Site Coverage</b>	98%	45-60%
<b>Plot Ratio</b>	4.46:1	0.5-2.0
<b>Density</b>	572	50 units / ph
<b>Public Open Space</b>	259m <sup>2</sup>	214m <sup>2</sup>

7.2.4. In terms of City Development Plan Development Standards, it is clear that the proposed development significantly exceeds these standards. The Board will note that the development was amended with details submitted in support of the first party appeal. The number of proposed apartment units has been reduced to 36 to include 6 x Studios, 10 x 1 bedroom apartments and 20 x 2 bedroom apartments. If permitted, this would result in a density of 479 units per hectare.

7.2.5. 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 amended proposed development is approximately over 479 units per hectare. The Board will note that the density of recently permitted development in the vicinity of the subject site ranges from approximately 90 – 220 units per hectare. As such, the proposed density is considered high.

The Sustainable Urban Housing: Design Standards for New Apartments, DoHPLG December 2018

7.2.6. The 2018 guidelines update the guidelines from 2015 in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness, Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines, and specific policy objectives contained in these guidelines take precedence over policies and objectives of development plans. The aims of the guidelines are to enable a mix of apartment types, make better provisions for building refurbishment and small-scale urban infill schemes, address the emerging 'build to rent' and 'shared accommodation' sectors and to remove requirements for car-parking in certain circumstances.

7.2.7. Chapter 3 of the Guidelines provide Design Standards and I proposed to consider the proposed development against these requirements as follows:

a) *Apartment floor area:*

The Guidelines require that the minimum floor areas be applied to apartment developments. The proposed development provides for the following floor areas:

No of Unit Type	Minimum overall F/A	Proposed F/A	Total F/A
8 x Studio	37m <sup>2</sup>	8 x 37.3m <sup>2</sup>	298.4m <sup>2</sup>
12 x One bedroom	45.0m <sup>2</sup>	6 x 50.0m <sup>2</sup> 6 x 50.4m <sup>2</sup>	602.4m <sup>2</sup>
23 x Two bedrooms	3 person = 63.0m <sup>2</sup> 4 person = 73.0m <sup>2</sup>	1 x 76.6m <sup>2</sup> 6 x 78.3m <sup>2</sup> 6 x 79.6m <sup>2</sup> 1 x 80.2m <sup>2</sup> 4 x 81.9m <sup>2</sup> 4 x 88.7m <sup>2</sup> 1 x 90.8m <sup>2</sup>	1,877.4m <sup>2</sup>
<b>43 units in Total</b>			<b>2,778.2m<sup>2</sup></b>

The development proposes 43 studio, 1 and 2 bedroom apartments. All apartments proposed achieve the minimum floor area required by the guidelines.

The guidelines also provide for the following minimum requirements in terms of the living / dining and kitchen room areas:

**Minimum aggregate floor areas for living/dining/kitchen rooms**

Minimum widths for the main living/dining rooms Apartment type	Width of living/dining room	Aggregate floor area of living / dining / kitchen area*
Studio	4.0 m	30.0m <sup>2</sup>
One bedroom	3.3 m	23.0m <sup>2</sup>
Two bedrooms (4 person)	3.6 m	30.0m <sup>2</sup>

All units generally accord with the above requirements and I am satisfied that the development proposes bedrooms of a size which comply with the requirements in terms of width and floor areas.

*b) Safeguarding Higher Standards*

It is a requirement 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% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%)'.

In this regard, the following is relevant:

Unit Mix	No of Apartments	Cumulative Min Floor Area
18.6% Studio	8	8 x 37m <sup>2</sup> = 296m <sup>2</sup>
27.9% 1-bed units	12	12 x 45m <sup>2</sup> = 540m <sup>2</sup>
53.5% 2-bed units	23	23 x 73m <sup>2</sup> = 1,679m <sup>2</sup>
<b>Total</b>	<b>43</b>	<b>2,515m<sup>2</sup></b>

+ 10%	No of Apartments	Cumulative Min Floor Area
1-bed units + 10%	12	12 x 4.5m <sup>2</sup> = 54.0m <sup>2</sup>
2-bed units + 10%	23	23 x 7.3m <sup>2</sup> = 167.9m <sup>2</sup>
<b>Total</b>	<b>35</b>	<b>221.9m<sup>2</sup></b>

Total Required Minimum Floor Area therefore is 2,736.9m<sup>2</sup>. The actual proposed floor area of the residential element of the overall development, is 2,778.2m<sup>2</sup>. I am satisfied that the proposed development is acceptable in this regard.

c) *Dual aspect ratios:*

This issue relates to the availability of daylighting and orientation of living spaces in order to maximise the amenity of occupants of the apartments. The proposed development provides for 43 apartments in a single block with communal amenity space provided in the form of a landscape roof garden.

The 2 bed apartments are dual aspect while the studio and 1 bed apartments are single aspect with the 1 beds all having a northern aspect and the studios a southern aspect. Of the 43 apartments, 23 have a northern aspect while 14 are south facing and 6 west facing. The two penthouse apartments will enjoy large west facing balconies.

While I acknowledge the detail of the proposed development, I have reservations regarding the quality of the proposed private amenity spaces for a large number of the proposed apartments.

d) *Floor to Ceiling Height:*

It is a specific policy requirement that ground level apartment floor to ceiling heights shall be a minimum of 2.7m, and 3m should be considered for multi-storey buildings, to ensure the adaptability of the ground floor areas where they adjoin busy commercial streets with significant pedestrian footfall. The submitted plans provide a floor to ceiling height of 2.85m at ground floor level with the upper floors having a floor to ceiling height of 2.5m.

I note the appeal submission, that two of the ground floor apartments could be replaced with retail uses, subject to a further planning permission. In this regard, the ground floor of the proposed building should be increased to 3m in accordance with the Design Standards for New Apartment Guidelines.

e) *Lift & Stair Cores:*

A central core area is proposed to serve the development, with a maximum of 8 units served per floor. Having regard to the scale of the proposed development, I am satisfied that the proposed stairs and lift arrangement is acceptable.

f) *Internal Storage:*

The proposed development provides for storage within all apartments. Minimum storage requirements are indicated in the guidelines and it is noted that said storage 'should be additional to kitchen presses and bedroom furniture but may be provided in these rooms. A hot press or boiler space will not count as general storage and no individual storage room within an apartment shall exceed 3.5m<sup>2</sup>.' The Guidelines also advise that storage for bulky items outside the individual units should also be provided, apart from bicycle parking requirements. The minimum storage space requirements are identified as follows:

**Minimum storage space requirements**

Studio	3 sq m
One bedroom	3 sq m
Two bedrooms (4 person)	6 sq m

In the context of the proposed development, the Board will note that the submitted drawings indicate that storage is provided within each apartment. In addition, the basement provides for 19 storage units with an additional 12 storage units proposed at ground floor level (31 in total). It is unclear who will have access to the additional storage spaces provided at basement and ground floor level.

*g) Private Amenity Space:*

It is a specific planning policy requirement that private amenity space shall be provided in the form of balconies or terraces. The guidelines require the following minimum floor area for private amenity space:

**Minimum floor area for private amenity space**

Studios	4 sq m
One bedroom	5 sq m
Two bedrooms (4 person)	7 sq m

All apartments are provided with balconies or terraces, all of which appear to meet the minimum requirements, and all private open spaces adjoin and have a functional relationship with the main living areas of the apartments. I have raised a concern above in relation to the quality of the private open spaces associated with a number of units given that they are all north facing.

*h) Security Considerations*

The Guidelines require that apartment design should provide occupants and their visitors with a sense of safety and security by maximising natural surveillance of streets, open spaces, play areas and any surface bicycle or car parking. Entrance points should be clearly indicated, well lit, and overlooked by adjoining dwellings. Particular attention should be given to the security of ground floor apartments and access to internal and external communal areas.

The submitted details indicate that there will be two accesses to the apartment development, one pedestrian access from Harold's Cross Road

and one from the basement car park, which will also be accessed off Harold's Cross Road.

I note the amended proposals submitted as part of the first party Appeal, which seeks to address the concerns raised in terms of the security and amenity value of 2 apartments. These units are proposed to be omitted with a further planning application proposed to be lodged seeking an alternative more active use of this area of the building.

In terms of the communal amenity space, the roof gardens, the design does not afford any natural surveillance. It is also noted that there is no provision made for a children's play area. Having regard to the scale of the development, together with its location directly across from Harold's Cross Park, I am satisfied that the development is acceptable in this regard.

7.2.8. Chapter 4 of the Guidelines seeks to deal with communal facilities in apartments and deals with access & services, communal facilities, refuse storage, communal amenity space, children's play, bicycle parking and storage and car parking. Given the scale of the proposed apartment block as part of the development, I am satisfied that there is no requirement for a communal room and that the landscaped communal roof garden is adequately sized.

7.2.9. In terms of the refuse storage, the Board will note the intention to provide a bin storage area, which will have a stated area of 38.9m<sup>2</sup>, at the south east corner of the basement. The layout plan did not indicate the type of bins to be provided. Having regard to the proposed layout of the basement area, I have a real concern in terms of the location of the bin store area for a number of reasons. The location is not particularly central for all future occupants of the scheme and will be located adjacent to 6 car parking spaces with a small access which will open out into the car park. The basement will have a ceiling height of 2.8m which would mean that waste collectors will not be able to access the store. In addition, there is no indication of any ventilation proposed in the area of the bin store. While this might be considered minor, a condition to include ventilation may have significant impacts for the residential amenity of the apartment above given the location of the terrace associated it.

- 7.2.10. I note that it is the intention for the management company to move bins from the basement to surface level prior to collection to an area adjacent to the entrance to the scheme for collection. The Guidelines advise that 'waste storage areas in basements should be avoided where possible, but where provided, must ensure adequate manoeuvring space for collection vehicles'. In this regard, I do not consider that the proposed development is acceptable or in compliance with the guidelines. There is no indication as to where the bins may be stored at surface level while awaiting collection and I note the concerns of the Transportation Planning Division in this regard. It is not appropriate that the bins will be stored on the public footpath and with the footprint of the proposed building covering the full site, there is nowhere to provide a holding area off the public footpath and within the private site.
- 7.2.11. Should the Board be minded to grant permission, a 'holding area for refuse bins at surface level' should be appropriately designed and secured with written agreement with the Planning Authority necessary prior to any development works at the site.
- 7.2.12. In relation to communal amenity spaces, the plans provide for an area of open space in the form of a roof garden. The amended proposal submitted in support of the appeal provides for 2 roof top communal gardens, one at the 5<sup>th</sup> floor level and one at the 6<sup>th</sup> floor level. In the context of the site, I would accept that there is little alternative available to the applicant in terms of the provision of communal open space. The Board will note however, the proximity of Harold's Cross Park across the public road from the site. As such, I am satisfied that the development is acceptable in this regard.
- 7.2.13. Car parking and bicycle parking is proposed within the basement level. The Guidelines promote the location of apartments which have access to public transport and other sustainable transport modes. Where it is appropriate to reduce car parking provisions, high quality cycle parking and storage facilities should be provided. The proposed development provides for 11 car parking spaces, amounting to approximately 1 space per 4 apartments, and 88 bicycle parking spaces within the basement, all of which will be accessed via the basement ramp.
- 7.2.14. The guidelines require that 1 cycle storage space per bedroom is applied. The development proposes 88 bicycle spaces in the form of a double stacker system which allows the wheels and frame of the bike to be secured. 78 of these spaces will

be provided along the north wall of the basement car park, with an additional 10 spaces located in a corner to the south, and adjacent to proposed parking space no.5. I note the concerns raised by the Transportation Planning Division in terms of the usability of the stacker system and potential conflict with cars reversing and accessing car parking spaces. In the context of the proposed development, 88 cycle parking spaces are required. The development therefore accords with the guideline requirements as they relate to the provision of cycle parking.

- 7.2.15. In terms of car parking, the Guidelines notes that the quantum or requirement for car parking will vary in terms of the location of the site. Section 4.19 suggest that the car parking provision can be minimised, substantially reduced or wholly eliminated in certain circumstances. Such policies are applicable in highly accessible areas in or adjoining city cores or at a confluence of public transport systems. Where it is sought to eliminate or reduce car parking provision, it is necessary to ensure the provision of an appropriate drop off, service, visitor parking and parking for the mobility impaired.
- 7.2.16. The Board will note the comments of the Transportation Planning Division in terms of the reduced number of car parking spaces. Concerns are raised that the reduced number of parking spaces may result in overspill onto the adjoining road network if not managed properly. Given the existence of bus and cycle networks on Harold's Cross Road, any overspill would impact negatively on the operation of these networks. Should the Board be minded to grant permission in this instance, I recommend that a condition requiring the submission of a car parking strategy be submitted in accordance with the requirements of the Transportation Planning Division of Dublin City Council. I will discuss traffic issues further below in this report.

Conclusion:

- 7.2.17. Overall, I am satisfied that the principle of the proposed development is acceptable in terms of the location of the site within Dublin City and the zoning objective afforded to the site. I am satisfied that the proposed development complies with the general thrust of the Sustainable Urban Housing: Design Standards for New Apartments, DoHPLG December 2018. In this regard, the following is relevant:
- I am satisfied that the building has been designed to provide appropriate access to the building.

- In terms of community facilities, having regard to the minimal scale of the development, I am satisfied that such facilities are unnecessary.
- With regard to communal amenity space, I am satisfied that the proposed roof gardens are acceptable.
- In terms of bicycle parking and storage, I am satisfied that the proposed development is acceptable.
- The proposed development provides for 11 car parking spaces, 1 of which is an accessible space, within the scheme. The guidelines facilitate the reduction in the provision of car parking spaces, or the elimination of such provision in certain circumstances. Given the location of the site, and the proximity of the site to shops and services as well as public transport, I am satisfied that reduced parking may be appropriate to serve the proposed development.
- The quality of the proposed private amenity spaces, particularly for the proposed ground floor apartments and those with a northern aspect, is questionable. The Board will note that this issue formed the basis for a reason for refusal by Dublin City Council. In response, the applicant, as part of the appeal, submitted a proposed revised ground floor which omits two of the original 5 apartments proposed. Should the Board be minded to grant permission in this instance, I would recommend that the proposed 1 bedroom apartment at ground floor level should also be omitted as the issues associated with the other 2 apartments to be removed in the amended proposals are present in this case also.
- A communal refuse storage area is proposed in the basement of the proposed development. No ventilation proposals are evident in the submitted plans. There is no provision for a street level storage area to keep bins prior to collection. Should the Board be minded to grant permission in this instance, these issues would need to be resolved.
- In terms of the proposed floor to ceiling heights within each floor of the development, I recommend that the ground floor ceiling height should be increased to a minimum of 3m in order to appropriately facilitate a potential commercial use, subject to a further planning approval.

### 7.3. Visual & Residential Amenity Impacts

- 7.3.1. The proposed development site is located on Harold's Cross Road and the Board will note that the PA has refused permission for the development for reasons which relate to the design, scale, mass and bulk of the proposal given its proximity to adjoining properties. In this area of Harold's Cross Road, the maximum building height is currently between 2 and 3 storeys. The proposed development seeks permission for a 6 storey apartment block on this restricted site, with full site coverage. The design of the original building proposes 5 full storeys to Harold's Cross Road, with the 5<sup>th</sup> floor set back and the plant room (at 6<sup>th</sup> floor level) located at the south eastern corner of the roof. With the plant room, the building rises to 7 storeys.
- 7.3.2. The Dublin City Development Plan, 2016-2022, at Section 16.7.2 provides guidance and standards for building height limits within the City. The subject site is located within an area which has been identified as having a building height cap of 16m. Section 4.5.4 of the Plan deals with taller buildings and acknowledges the intrinsic quality of Dublin as a low-rise city, and considers that it should remain predominantly so. The Plan further provides that taller buildings can also play an important visual role, and 'recognises the merit of taller buildings in a very limited number of locations at a scale appropriate for Dublin'. Policy SC16 is relevant in this regard and states that it is the policy of Dublin City Council:
- To recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA).
- 7.3.3. The issue of height is raised by observers to the appeal and was also raised with the Planning Authority during their assessment of the proposed development. The proposed development will rise to 6 storeys (plus the plant room on the roof) with an overall height indicated at 20.8m at ridge height. The Board will note the amended proposal for the development submitted in support of the first party appeal which seeks to address the concerns raised in relation to visual impact by setting back the fourth floor and further setting back the fifth floor. The overall height of the amended

building is 20.3m in height. These heights exceed the maximum building height as provided for in the City Development Plan, being a maximum of 16m. As such, it may be considered that the proposed height of the apartment building materially contravenes the Dublin City Development Plan. I note that the PA did not include this as a reason for refusal and I propose to consider this matter further below in section 7.6 of this report.

- 7.3.4. The Urban Development and Building Height Guidelines for Planning Authorities (Dec 2018), builds on the wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework. In contrast to the City Development Plan, increased building heights is identified as having a critical role in addressing the delivery of more compact growth in urban areas, particularly cities and larger towns. Specific Planning Policy Requirements (SPPRs) of the height guidelines take precedence over any conflicting policies, and objectives of the Dublin City Development Plan.
- 7.3.5. I have no objection in principle to the increasing in the height of the building on the site and would consider same to comply with national policy which seeks to achieve greater height and densities in appropriate urban areas adjacent to quality public transport routes. However, I propose to consider the development in terms of the visual and residential amenity impacts on the wider streetscape.
- 7.3.6. The original proposal seeks the construction of a building with an overall height of 20.95m. In the context of existing development along Harold's Cross Road, this height would appear excessive. The Board will note that the redevelopment of St. Clare's Convent is currently underway. The permitted buildings fronting onto Harold's Cross Road for that much larger residential development is primarily 5 storeys, with the 4<sup>th</sup> storey set back from the front elevation, save for a corner block.
- 7.3.7. The subject proposed building is located to the south of the existing access road to the former Harold's Cross Greyhound Stadium and adjacent residential properties. The height of the building directly adjacent to this access road is 17.2m. At this height, there is potential for the development to overshadow existing residential private open space in the form of rear gardens of houses to the north. I note that the 3 storey building directly north of the access road is currently boarded up and unoccupied and if permitted, as originally proposed, the entire rear garden area has

the potential to be overshadowed and overlooked due to the large number of windows proposed. The property further north also has potential to be affected by the development. The amendments proposed in the appeal documentation increase this elevation of the proposed building to 17.6m in height, which would add to the impact on existing residential amenity.

- 7.3.8. To the south of the site, lies Peggy Kelly's Pub. The owners of the pub have raised concerns in terms of the scale of the proposed development and the potential impact on their business. In addition, it is submitted that given the current use of the premises, and the associated car park and beer gardens, the operations of the pub may have an impact on the residential amenity of future residents. It is submitted that an increased buffer space between the two sites would be appropriate. Of particular concern in this regard, is the potential for future residents to object to the renewal of the publicans' licence due to dis-amenity arising from noise generated in the beer gardens. Overlooking and overshadowing of the beer garden is also raised as a concern.
- 7.3.9. In terms of the above, I note that the pub is located to the south of the subject site and therefore, is unlikely to experience significant overshadowing. With regard to the overbearing nature of the building and overlooking potential, I am less concerned, given the existing use of the car park and beer garden. The building is to be located 10m+ from the existing pub and having regard to the proposed finishes of balconies within the development, I am generally satisfied that issue of overlooking can be set aside. I do acknowledge the potential concerns with regard to future residents and objections to the renewal of the publicans licence, but would consider that as the Peggy Kelly's Pub is an established business, together with the location of the site, the development in principle is acceptable.
- 7.3.10. With regard to the visual impacts associated with the development, the amended proposal will result in a building rising to just under 12m along the front elevation. This is due to the setting back of the fourth floor. The rear elevation will rise to a height of approximately 17.4m with the plant room set back from the rear elevation. The southern elevation, onto Peggy Kelly's Pub, will also rise to just under 12m when the fourth floor is set back by approximately 1.5m from this elevation.

- 7.3.11. The elevational treatment proposes the use of extensive glazing and red brick which reflect the traditional materials used in this area of Dublin City. Notwithstanding the amendments to the proposed development, I consider that the scale of the development would represent a visual impact in this streetscape. The development would have a negative impact on the existing character and scale of the streetscape. However, I consider that the development could be amended to reduce this impact to a level which is acceptable and appropriate to Harold's Road.
- 7.3.12. Should the Board be minded to grant planning permission in this instance, I recommend that the third floor of the proposed amended development be omitted. This would reduce the number of floors from 6 storeys to 5 storeys (excluding plant level), with the top two floors set back in accordance with the amended plans submitted with the appeal. In addition, the ground floor of the building should have the floor to ceiling height increased to a minimum of 3m in order to comply with the Sustainable Urban Housing: Design Standards for New Apartments, DoHPLG December 2018, and to ensure the adaptability of the building.
- 7.3.13. The above amendment would result in the omission of 9 units including 2 x studios, 3 x 1 bed and 4 x 2 bed apartments to provide 27 residential units. The density of the development would also be reduced to approximately 359 units per hectare. In the context of the location of the site, I consider that this density would be acceptable and that the development would represent an appropriate form of high density residential development which would not significantly impact existing residential or general amenities and would be appropriate to the character of the streetscape.

#### **7.4. Roads & Traffic**

- 7.4.1. The Board will also note that I have addressed issues relating to car parking and bicycle parking above on pages 25 and 26 of this report, Sections 7.2.14 – 7.2.17 refer. On the date of my site inspection, a number of cars for sale were parked directly outside the garage and on the public footpath. Cars were also parked in front of the gate into the car park associated with Peggy Kelly's Pub. It is proposed that the vehicular access to the proposed developments basement carpark will be by way of a priority access from the heavily trafficked Harold's Cross Road. This access will replace the current access to the garage / car showroom building.

- 7.4.2. The site is located in an area which is accessible to Dublin City Centre, being within a 30 minute walk to St. Stephens Green. The area is also served by high frequency bus services and cycle lanes. There is also paid parking available in the vicinity of the site. The Board will note the proposals to redevelop the former greyhound stadium as a 'car free' educational campus is proposed to include both a primary and secondary school. Access to the schools will be via the existing access to the stadium, which lies between the subject site and the adjacent 3 storey house, as well as through pedestrian laneways in the vicinity of the site.
- 7.4.3. The applicant included a Transportation Assessment Report (TAR) as part of the planning documentation in order to address the impact of the development on the adjacent road network. The Assessment is based on weekday AM and PM Peak surveys and includes an assessment of the impact of the proposed development during the projected opening year 2022 and design year 2037.
- 7.4.4. The access ramp to the basement car park will be controlled by red/green aspect signal heads and as only 11 spaces are proposed, the development is not perceived to have a significant turnover of spaces. In the event that a car is exiting when another arrives to enter, it is submitted that the existing footpath is sufficiently wide to allow the entering car to wait off road before entering.
- 7.4.5. In terms of the assessment findings, it is expected that in the worst case scenario, the development will result in traffic increases on Harold's Cross Road in the order of 1.05% in the AM Peak hour and 1.16% in the PM Peak hour. It is concluded that the development will have a negligible traffic impact. The TAR, at appendix F, includes a Residential Travel Plan (Mobility Management Plan) which sets out a number of initiatives to encourage residents to choose sustainable modes of transport. It is also noted that a Travel Plan Coordinator will be appointed to implement the plan.
- 7.4.6. In terms of Roads and Traffic issues, the Board will note the concerns of the Transportation Planning Division in terms of the potential impacts on the Core Bus Corridor, type of cycle parking proposed, issues with regard to the collection of refuse and the potential for over-spill of car parking onto the adjoining road network. It is requested that a car parking strategy be prepared for the development which should indicate how car parking spaces will be assigned and managed over the long

term. A minimum of 2 on-site 'Car-Club' car sharing scheme spaces should also be included.

- 7.4.7. The Sustainable Urban Housing: Design Standards for New Apartments, DoHPLG December 2018, facilitate the reduction in the provision of car parking spaces, or the elimination of such provision in certain circumstances. Given the location of the site I am satisfied that reduced parking can be considered appropriate to serve the proposed development. However, and prior to the commencement of any development on the site, the applicant should be required to submit clear proposals to address the issues in relation to a car parking strategy and the detail of the proposed cycle parking system proposed. In addition, proposals for the temporary storage of refuse bins prior to collection shall be addressed. I am satisfied that these issues can be dealt with by way of condition.

## 7.5. Water Services

- 7.5.1. In terms of water services, the Board will note that the applicant submitted a Civil Structural Report in support of the proposed development. This report sought to address the civil and structural aspects of the development as follows:

Surface Water Drainage including Attenuation:

- The development proposes the use of a green roof type system to approximately 40% of the roof which will allow for some retention of rainwater within the roof area.
- An attenuation tank beneath the basement slab is also proposed which will provide in excess of the 1 in a 100 storm event volume, with a proposed volume of 30m<sup>3</sup> for a required attenuation volume of 21.2m<sup>3</sup>.
- Water from the tank will be pumped to the surface water system – which is a combined system.
- It is submitted that with the green roof proposed, the development will greatly reduce the impact of surface water on the public combined sewer than currently exists.

#### Foul Sewer & Water Supply:

- As part of the planning documents, the applicant submitted the response from Irish Water in relation to the connection application for water services.
- It is noted that the existing development on the site is connected to the public services.
- The development will discharge to the foul sewer by gravity to the existing combined sewer.
- The development will connect to the existing water main.
- The anticipated water demand is calculated, and it is submitted that storage tanks and booster pumps as required will be provided and detailed at design stage of the project.

#### Flooding:

- No flood risk assessment was prepared for the subject site and the submitted report submits that there is no evidence of flooding in the immediate vicinity of the site.
- The OPW floodmaps.ie does not indicate any record of flooding in this section of Harold's Cross Road. Flooding is noted to the west of the site, across the park related to the Poddle River.
- It is submitted that the proposed development will greatly enhance the control of surface water runoff from the site.

7.5.2. In terms of the information submitted, I am generally satisfied that the development can be accommodated in terms of water services. I also note that the Drainage Division of Dublin City Council has raised no objection to the proposed development.

#### 7.6. Other Issues

##### 7.6.1. Material Contravention Issue

Section 7.3 of this report raised the issue of potential material contravention of the Dublin City Development Plan 2016-2022. Section 16.7.2 of the Development Plan identifies building heights for the city and identifies a building height maximum of

16m for residential development in this location. The development as proposed exceeds this 16m height restriction in the Development Plan, and therefore it may be considered that the development as proposed, materially contravenes the provisions of Policy SC16, Section 4.5.4.1 and Section 16.7.2 of the Development Plan.

The Board will note that the planning authority did not raise this as an issue in its decision to refuse planning permission. The issue with the proposed development relates to the overdevelopment of the site and the impact of the development on the visual amenities of the streetscape and character of the area.

If it is determined that the proposed development materially contravenes the provisions of the City Development Plan, I would refer the Board to Section 37(2)(b) of the Planning and Development Act 2000, as amended. This section of the Act provides that the Board may only grant permission where it is considered that:

- i. The proposed development is of strategic or national importance,
- ii. There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- iii. Permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- iv. Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

In the context of the proposed development, I am satisfied that the Board can consider that the exemptions set out in Section 37(2)(b)(iii) are applicable in this instance. I am satisfied that the proposed development is acceptable in this regard.

#### **7.6.2. Archaeological Impacts**

The western area of the site is located within a zone of archaeological constraint for the Recorded Monument DU018-050 (settlement) which is listed on the Record of

Protected Monuments and Places and subject to statutory protection under Section 12 of the Monuments Act 1994. In addition, the site is located within a Zone of Archaeological Interest. The submitted application, and appeal, did not include an archaeological assessment, required under Policy CHC9 of the Dublin City Development Plan which states that it is the policy of the council:

To protect archaeological material in situ by ensuring that only minimal impact on archaeological layers is allowed, by way of the re-use of buildings, light buildings, foundation design or the omission of basements in the Zones of Archaeological Interest.

The Board will note that the City Archaeologist recommended that a condition be included in any grant of planning permission. Having regard to the nature of the existing site, I am satisfied that the recommended condition should be included in any grant of permission.

#### **7.6.3. Development Contribution**

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

#### **7.7. Appropriate Assessment**

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(site code 00210) and the South Dublin Bay and River Tolka Estuary SPA (site code 004024) which are located approx. 4.8km to the east of the site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the 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

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

## 9.0 Reasons and Considerations

Having regard to:

- (a) the Z1 residential zoning objective for the subject site;
- (b) the objectives of the National Planning Framework - Project Ireland 2040 issued by the Government in February, 2018;
- (c) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, issued by the Department of the Environment, Heritage and Local Government in May, 2009;
- (d) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of Housing, Planning and Local Government in March, 2018;
- (e) the Urban Development and Building Heights Guidelines for Planning Authorities December 2018; and
- (f) the proximity of public transport corridors

it is considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable density and scale in this location, would not seriously injure the residential or general amenities of adjoining property, would be acceptable in terms of pedestrian and traffic safety and convenience and 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, as amended by the further plans and particulars submitted to An Bord Pleanála on the 21<sup>st</sup> day of May, 2020, 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. Permission is granted for 27 residential units.

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

2. The proposed development shall be amended as follows:
  - (a) The third floor of the amended proposal (as detailed in the submission to An Bord Pleanála on the 21<sup>st</sup> day of May, 2020) shall be omitted.
  - (b) The floor to ceiling height of the ground floor shall be increased to a minimum of 3m.
  - (c) The proposed 1 bedroom apartment at ground floor level shall be omitted.
  - (d) A temporary holding area for refuse bins shall be provided at surface level. This area shall be appropriately designed and secured and full details for the management of this area, shall be provided.
  - (e) The car park shall be amended to provide for 2 no. on-site car sharing scheme spaces.

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

**Reason:** In the interest of clarity, visual and residential amenity and proper planning and sustainable development.

3. Prior to the commencement of any development on the site the developer shall submit the following for the written agreement of the Planning Authority:
  - (a) A Parking Strategy for the development in accordance with the requirements of the Transportation Planning Division of Dublin City Council, which will indicate how car parking will be assigned and

managed. The strategy shall include details of an agreement between the developer / management company and the proposed Car Club.

- (b) Proposals for servicing of the site in terms of waste collection and impacts on the Bus Connects Core Bus Corridor.
- (c) Full details of the proposed cycle parking system proposed and a demonstration that the system will function fully within the parking area in terms of clearance height, manoeuvring space for the use of the cycle stands and the potential conflict with car parking spaces.
- (d) Details as to how the ramp will accommodate cyclists and vehicles.

**Reason:** In the interests of the protection of the existing road network and the pedestrian and cyclist safety.

4. Prior to the commencement of any development on the site:

- a) The developer shall retain a suitably qualified licenced archaeologist to advise regarding the archaeological implications of site clearance, demolition and / or construction methodology and to make appropriate recommendations for mitigation including detailed survey as necessary. The archaeologist shall provide an Archaeological Impact Assessment of the proposed development (including temporary and enabling works) to the planning Authority prior to monitoring.
- b) The developer shall allow for the resolution of archaeology (both on site and necessary post excavation) in the project budget and timetable.
- c) The developer's archaeologist shall undertake licenced archaeological monitoring of all demolition and sub-surface works associated with the development including the breaking and removal of any floor slabs, levelling of ground etc.
- d) The archaeologist shall consult with and forward the Method Statement in advance of the commencement of any works for the agreement of the Planning Authority.

- e) In the event of archaeological features being located in the course of the monitoring, the developer shall facilitate the archaeologist in fully recording such features, including if necessary the archaeological excavation of such features. In the event of significant archaeological features on site, the archaeologist retained by the developer shall immediately contact the Planning Authority. The Planning Authority (in consultation with the City Archaeologist and the National Monuments Service, Department of Culture, Heritage and the Gaeltacht) shall determine the further archaeological resolution of the site.
- f) Two copies of a written report and a digital report (on compact disc) containing the results of the archaeological monitoring shall be forwarded on completion to the Planning Authority and National Monuments Service, Department of Culture, Heritage and the Gaeltacht.
- g) Following submission of the final report to the Planning Authority, where archaeological material is shown to be present, the archaeological paper archive shall be compiled in accordance with the procedures detailed in the Dublin City Archaeological Archive Guidelines (2008 Dublin City Council) and lodged with the Dublin City Library and Archive, 138-44 Pearse Street, Dublin 2.

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.

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

**Reason:** In the interest of visual amenity.

6. 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.

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

**Reason:** In the interest of orderly development.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be placed underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

9. No additional development shall take place at roof level including any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunications aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** In order to protect the visual amenities of the area and to permit the planning authority to assess any such development through the statutory planning process.

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

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

12. Site development and building works shall be carried out only between the hours of 0800 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.

13. Proposals for the development name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the development name, signs and apartment numbers shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternative acceptable to the planning authority. No advertisements/marketing signage relating to the

names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interest of urban legibility.

14. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

15. 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 for the area.

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 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.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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A. Considine  
Planning Inspector  
3<sup>rd</sup> September, 2020