



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311691-21

#### Development

Demolition of buildings and certain boundary walls, construction of building comprising 52 Built-to-Rent apartments, communal residential amenities, alterations to the layout of Laundry Lane and associated site works.

#### Location

348 Harold's Cross Road, Dublin 6W,  
D6W VW99

#### Planning Authority

Dublin City Council South

#### Planning Authority Reg. Ref.

2769/21

#### Applicants

AAI Kenilworth Limited

#### Type of Application

Permission

#### Planning Authority Decision

Grant Permission

#### Type of Appeal

Third Party

#### Appellants

Paul Duignan and Lisa Queen

#### Observers

Harold's Cross Village Community  
Council

**Date of Site Inspection**

3<sup>rd</sup> March 2022

**Inspector**

Margaret Commane

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## 1.0 Site Location and Description

- 1.1. The area surrounding the site at No. 348 Harold's Cross Road, Dublin 6W, features a mix of residential, commercial, community and recreational uses, with the immediate abuttals to the north and south comprising residential properties. There is a mix of one, two and three storey dwellings and commercial buildings in the vicinity of the site in a variety of architectural styles. With regards to public transport, Harold's Cross Road is a Quality Bus Corridor served by Bus Routes No. 16, 16D and 49 and the subject site is also proximate to Dublin Bus Routes No. 18, 83 and 83A, running along Kenilworth Park.
- 1.2. The site comprises a 0.2319ha irregular shaped parcel of land on the western side of Harold's Cross Road which was formerly the site of Kenilworth Motors. More specifically, the subject site features a two-storey showroom building facing Harold's Cross Road, set back behind a forecourt area, and single and double height structures to the rear (with a total floor area of 1,164sqm). The rear of the site also features a yard / car park. There is a slight fall (c. 2 metres) across the site from west to east.
- 1.3. The site is bounded to the north by a c. 5 metres wide lane known as Laundry Lane. On the opposite side of this lane, fronting Harold's Cross Road, is a two-storey apartment building known as Kenilworth Lodge and further west a two-storey detached dwelling, No. 346A Harold's Cross Road. Both of these properties utilise Laundry Lane for vehicular access. Laundry Lane also provides rear access to properties on Clareville Road to the west and the yard / car park to the rear of the subject site, as well as an additional yard to the north-western side of the lane used for car storage associated with the previous car sales use on the subject site (this yard is excluded from the subject application).
- 1.4. The site's irregular southern boundary is flanked by Kenilworth Park, an access road serving Kenilworth Manor, a development comprising of 3 storey terraced duplex dwellings to the south of the site and 2 no. two-storey semi-detached houses to the south-west. This road also provides access to Rosary Park Football Grounds which flanks the subject site's western boundary.
- 1.5. To the east of the subject site, on the opposite side of Harold's Cross Road, are a no. of single and double storey detached and semi-detached dwellings, Nos. 263, 265, 267 and 269 Harold's Cross Road.

1.6. The red line application site boundary includes lands within the public realm required to facilitate the development and a letter of consent from Dublin City Council has been submitted in this regard.

## 2.0 Proposed Development

2.1. Planning permission was sought for: - demolition of all buildings (1,164sqm) and certain boundary walls; and construction of a two-five storey building (total gross floor area of c. 5,163 sqm) with 52 no. apartments (4 no. studio units; 44 no. 1-bed units; and 4 no. 2-bed units), communal residential amenities (228sqm), concierge, communal amenity open spaces and public open space to the east (293sqm). The development was to be served by 83 no. cycle parking spaces (62 no. in upper ground floor level bike store and 21 no. external visitor spaces), 2 no. car club parking spaces and 5 no. resident car parking spaces. Access to the scheme will be via Harold's Cross Road and Laundry Lane, with the layout of Laundry Lane to be altered to provide a pedestrian footpath and service area.

2.2. The proposed development will be contemporary in design and materials/finishes will consist of brick, zinc cladding, powder coated aluminium louvre system and curtain walling.

2.3. Foul waste and water supply will connect to the existing Irish Water infrastructure on Harolds Cross Road and Laundry Lane. SUDS measures are incorporated within the development.

2.4. The proposal was revised in response to a further information request. The revisions made resulted in the following amendments to the proposed development:

- Removal of 2 no. 1-bed units resulting in a total of 50 no. apartments (4 no. studio units; 42 no. 1-bed units; and 4 no. 2-bed units);
- A 28sqm reduction in the communal residential amenities (resulting in a revised area of 200sqm);
- Reconfiguration/increase in the size of the rear communal open space area;
- A reduction in the gross floor area from 5,163sqm to 4,986.2sqm; the plot ratio from 2.4:1 to 2.31:1 and the site coverage from 63% to 59%;

- Provision of a 2m wide public footpath along the entirety of the Laundry Lane frontage;
- Relocation of the proposed cycle store adjacent to a main pedestrian access point accommodating 56 no. cycle spaces (a reduction in 8 no. secure cycle spaces for residents); and
- Provision of an additional car share space (resulting in a total of 3 no.).

2.5. A summary of the key site statistics/details of the proposed development (as amended by a further information response) are provided in the table below:

<b>Site Area</b>	0.2319ha (0.2155ha excluding DCC land)
<b>Demolition Works</b>	1,164sqm
<b>No. of Residential Units</b>	50 no. Build-to-Rent apartments (4 no. studio units; 42 no. 1-bed units; and 4 no. 2-bed units)
<b>Total Gross Floor Area</b>	4,986.2sqm
<b>Communal Amenity Areas</b>	200sqm
<b>Open Space</b>	293sqm of public open space and 369.7sqm of communal open space (comprising a 74.7sqm roof terrace on Level 3, a 190sqm roof terrace on Level 4 and 105sqm at ground floor level)
<b>Car Parking</b>	8 no. in total (3 no. car club parking spaces and 5 no. resident car parking spaces)
<b>Bicycle Parking</b>	86 no. in total (56 no. resident bicycle parking spaces, 28 no. visitor bicycle parking spaces and 2 no. cargo bicycle parking spaces)
<b>Part V Units</b>	5 no. apartments
<b>Density</b>	232 units per hectare (based on net site area of 0.2155ha)
<b>Height</b>	Part-2, part-3, part-4, part-5 storeys

<b>Site Coverage</b>	59% (based on net site area of 0.2155ha)
<b>Plot Ratio</b>	2.31 (based on net site area of 0.2155ha)
<b>Dual Aspect Apartments</b>	40%

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. The Planning Authority issued a notification of a decision to grant permission for the proposed development, subject to 16 no. conditions. These conditions are generally of a standardised format and relate to issues including surface water drainage, construction hours and development contributions/levies.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

###### Initial Planners Report (13<sup>th</sup> July 2021)

- It is considered that an entirely residential scheme in this location is acceptable, subject to meeting policy objectives in respect of design and development standards, neighbouring amenity, transport and environmental impacts.
- The Planning Authority noted the Built to Rent shared living development, recently refused through the Strategic Housing process under ABP Ref. ABP-307608-20. In this instance, the reasons for refusal related to the principle of a shared living development at this location and also overall bulk, massing and positioning of the proposed development on Harold's Cross Road. The subject proposal is now for an apartment development (Build to Rent) and the scale of the development has been reduced, this is welcomed.
- It is considered that the redevelopment of this brownfield site that is zoned for residential development for a more efficient use is welcomed.
- The maximum height of the proposed five storey development is 14.76 metres, which is in accordance with the height limit for residential developments in the outer city as set out in Section 16.7.2 of the City Development Plan.

- Overall, the Planning Authority welcomes the design approach, and scaled back version of the previous application. The applicant has made significant efforts to reduce the visual impact on the development on its receiving environment, in particular how the proposal is viewed from Harold's Cross Road, Kenilworth Manor and Laundry Lane. The highest part of the building is a penthouse level that is well set back from the edges of the site. The majority of the building is 4 storeys in height, with staggered heights closet to the neighbouring properties. There is good variety in terms of architectural approach, the east and south elevations are most exposed to views, and have been given careful consideration. Sensitive spaces such as those that lie next to neighbouring properties have secondary windows (such as those on the north elevation front Laundry Lane) and deliberate blank elevations avoid any instances of overlooking.
- The Planning Authority notes the high quality design and the high quality external materials that contribute to the visual success of the proposed building. External finished include a combination of a red brick and grey brick on the east elevation, penthouse level will be finished in a metal cladding. Vertical Louvres on the north elevation offer both visual interest and protection from overlooking to neighbouring properties.
- The proposed development is generally consistent with the requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020, including those specifically relating to Build-to-Rent developments.
- With regards to overlooking, there are issues with direct overlooking of directly opposing windows to properties on Laundry Lane, as the properties on the lane are orientated north and south. There are concerns that the outlook from apartments 28, 29, 42, 43 and 52, are located approximately 4 metres from the eastern elevation of the Harold's Cross Youth FC Clubhouse. The separation distances provided to Kenilworth Manor, the pair of semi-detached properties located to the rear of Kenilworth Manor and properties to the east of the site on the opposite side of Harold's Cross are considered sufficient to restrict overlooking from the proposed development.



- Changes to daylight/sunlight received by neighbouring properties as a result of the proposed development were considered minor and to be in accordance with the BRE standards.
- The Sunlight Reception Analysis provides an assessment of the proposed amenity spaces within the development. The area of public amenity space to the front of the site and both roof level terraces assessed meet the requirements as set out within the BRE Guidance. No assessment of the communal external space at upper ground level has been provided. There are concerns that due to the location of this area, and the height of the building that this area would provide a poor level of amenity space for future residents as it is likely to receive little sunlight.
- The overshadowing impact of the proposed development on properties to the north of the site on Laundry Lane are within the guidelines of the BRE recommendations.
- The proposed development includes a 2 m wide footpath on the southern side of Laundry Lane for the majority of the boundary with the proposed footpath reducing to 0.8 m west of the proposed service courtyard. The section of 0.8 m footpath appears to have bollards located within the footpath which would limit pedestrian use. The Planning Report which accompanies the application notes that it is proposed that the proposed footpath, including the 0.8m wide section, on Laundry Lane is to be taken in charge. The minimum width of 1.8m is required on any footpath that is proposed to be taken in charge by DCC, the width of the proposed footpath is sub-standard and is not acceptable to the Transport division. Pedestrian access requirements for users of the cycle store and bin store which are currently proposed to be accessed off Laundry Lane should also be reviewed, specifically the cycle store which may be more suited to be accessed from the Service Courtyard.
- With regards to public transport, the subject site is accessible to bus services. Harold's Cross Road is a Quality Bus Corridor (QBC) and the nearest bus stops in north and south bound directions are located approximately 3 min walk away.
- The 2 no. publicly accessible car share spaces located off Laundry Lane are welcomed. However, having regards to the proposed short term use proposal

for the standard car parking spaces as outlined in the Travel Plan, an additional car share space should be conditioned in the event of a grant of permission.

- The Transport Section has concerns regarding the low level of car parking spaces and the preference of this division would be for more car parking provision. However, in light of the scale of the development, the provision of car share, accessible and drop-off/visitor spaces for the use of residents as well as number of cycle parking spaces, service set-down areas and proximity to the QBC, the overall quantum of car parking spaces is acceptable in this instance.
- The quantum of cycle parking exceeds the minimum Development Plan standards and meets with the New Apartment Guidelines. The applicant is requested to relocate visitor cycle parking closer to the proposed pedestrian entrance, off the private footpath which leads to the pedestrian entrance in order to improve accessibility as well as passive surveillance.
- The Planning Authority considers that the subject site is a good example of an under-utilised site within this area that could benefit from redevelopment.
- The Planning Authority welcomes the proposed development, and considers that a Build to Rent apartment development is appropriate at this location. In terms of overall design, the proposed design changes to that refused ABP-307608-20 are welcomed, and it is considered that current design, massing and scale are more appropriate at this location. The overall bulk, scale and massing of the building is broken up with staggered heights and treatment of facades with high quality materials.
- The Planning Authority notes that the overall development exceeds the site coverage and plot ratio for Z1 lands, revisions to the layout / footprint would contribute to reducing the site coverage and plot ratio while addressing the issues regarding the quality of the development in the western end of the of site.

The report recommends a request for further information in respect of the following:

- Item 1: Concerns are raised in relation to the scale of the development given its overall footprint on the site, and its proximity to the western shared boundary (in particular balconies associated with units 28, 29, 42, 43 and 52). In addition,

concerns are raised regarding quality of/daylight received by the communal amenity space at upper ground level. The applicant is requested to submit revised plans addressing these issues, this may require a reduction in the footprint of building at this end of the site to improve the quality of residential amenity for future residents.

- Item 2: The applicant is requested to submit revised plans regarding the footpath proposals along Laundry Lane and relook at pedestrian access requirements for users of the cycle store and bin store. The applicant is also requested to provide tactile paving on the pedestrian crossing of Laundry Lane located on Harold's Cross Road, provide an additional 1 no. car share space, provide EV charging facilities for the 3 no. car share spaces, demonstrate that car charging facilities and associated equipment can be provided for all parking spaces to facilitate required provision as well as the future provision of charging infrastructure for remaining spaces, relocate the visitor cycle parking closer to the proposed pedestrian entrance, provide a minimum of 2 no. non-standard cycle parking spaces for residents and visitors e.g. accessible and cargo bikes spaces.
- Item 3: The applicant is requested to submit detailed landscaping plans and proposals.

#### Planners Report (29<sup>th</sup> September 2021)

The Planners report dated 29<sup>th</sup> September 2021 recommends a grant of permission subject to condition. The following provides a summary of the points raised:

- In response to Item 1, the applicant has submitted revised plans that show a reduction in unit numbers from 52 to 50, a 28sqm reduction in the communal amenity areas, reconfiguration of the rear area of communal open space, a reduction in gross floor area to 4,986.2sqm, a reduction in the plot ratio to 2.31 and a reduction in the site coverage to 59%. The revisions to the scheme are now closer to the Development Plan targets for Z1 lands in terms of plot ratio and the development now accords with the site coverage for Z1 lands. The revised plans submitted are considered to be acceptable, there are no further issues.

- In response to Item 2(a), the applicant has submitted an updated drawing which includes a 2m wide public footpath on the southern side of Laundry Lane that extends the entire length of the site. The proposed Taking in Charge drawing has been updated accordingly. The updated drawing also includes a relocated cycle store, accommodating 56 no. cycle spaces, adjacent to a main pedestrian access point. Although it results in an 8 no. secure cycle space reduction for residents, the overall quantum of secure cycle spaces exceeds the minimum requirements of the New Apartment Guidelines. The applicant has also provided clarification regarding tactile paving provision.
- In response to Item 2(b), the applicant has provided an additional car share space which results in a total of 3 no. car share spaces and 5 no. standard spaces (comprising an addition of 1 no. car parking space), including an accessible space, all of which are future proofed with EV charging facilities and the 3 no. car share spaces will be provided with EV facilities.
- In response to Item 2(c), the applicant has submitted an updated drawing outlining a relocated visitor cycle parking location, within the grounds of the site and closer to the main pedestrian entrance, and providing 2 no. non-standard cycle spaces within the visitor cycle parking area.
- In response to Item 3, the applicant has submitted additional landscaping details to accompany the original design statement submitted with the application. The additional detail submitted is considered to be acceptable.
- The applicant has submitted sufficient detail to satisfy the request for Further Information. The revisions made contribute towards a high quality build to rent development that will provide a good level of amenity for future residents. The redevelopment of this under-utilised site for residential development is welcomed, and it is considered that a Build to Rent apartment development is appropriate at this location. The proposed development accords with both the Dublin City Development Plan and with the proper planning and sustainable development of the area.

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

**Road Planning Division (5/07/2021):** Recommended that further information be requested regarding footpath proposals along Laundry Lane, pedestrian access

requirements for users of the cycle store and bin store which are proposed to be accessed off Laundry Lane, car share spaces, the provision of EV charging facilities and visitor cycle parking.

**Road Planning Division (16/09/2021):** In light of the revisions included in the further information response, no objection, subject to conditions.

**Drainage Division (27/05/2021):** No objection, subject to conditions.

### 3.3. Prescribed Bodies

**Irish Water:** No report received.

### 3.4. Third Party Observations

15 third party observations were submitted to the Planning Authority. The main issues raised therein are as follows:

#### Layout, Design and Appearance

- Overdevelopment – little difference from the previous application that was refused.
- Monolithic four storey building reads as oppressive from neighbouring area.
- Building height creates confined and narrow environment onto Laundry Lane.
- Height inappropriate at this location and will dwarf existing housing.
- Layout fails to engage with existing streetscape. Incongruous urban form.
- Excessive bulk and scale.
- Out of character with the surrounding area.
- Excessive density.
- Proposal is set forward of the established building line.
- Negative impact on Protected Structures in the area (Kenilworth Manor).
- Inappropriate mix of units, there should be more family sized units (2 and 3 bed units).

The current proposal has not adequately overcome the previous reasons for refusal.

### Residential Amenity

- Overbearing impact on neighbouring properties at Kenilworth Manor.
- Overshadowing.
- Overlooking.
- Loss of privacy.
- Loss of daylight.
- Concern regarding noise and disturbance.
- Poor, inadequate and unsuitably located communal spaces for future residents.
- Poor layout of units – accessed via a semi-private deck.
- Concern regarding communal spaces – in the current pandemic.
- Quantity of dual aspect apartment don't comply with the requirements.
- Lack of information on lighting, fire regulations, services/utilities, disability / mobility impaired.
- Lack of services in the area.
- Built to rent developments likely to attract a transient population, the area needs homes for elderly people.
- Concern that open space area to the front will attract anti-social behaviour.
- Possible structural damage to existing properties.

### Parking and Traffic

- Insufficient car parking proposal.
- Concern that low parking level will result in overspill car parking in the surrounding areas.
- Laundry Lane is not suitable for access for a development of this scale.
- Concern regarding impact of access for existing residents on Laundry Lane.

- Suggests a footpath on both sides of Laundry Lane.
- Insufficient public transport nearby to accommodate a development of this scale with low level parking.
- Traffic hazard as a result of waste collections off Laundry Lane
- Emergency services would struggle to access the Lane.
- Proposal will result in an increase in traffic volumes.
- Laundry Lane residents would be negatively impacted on as a result of construction traffic.

#### Other Matters

- Proliferation of Build to Rent Units in this area which do not meet the housing needs of the area.
- Rejects suggestion that the units are suitable for elderly people.
- Build to Rent development at Mount Argus remains 50% unoccupied, illustrating that there is no need for more BTR units.
- Lack of Local Plan for Harold's Cross
- No Environmental Impact Assessment has been carried out.
- The site was previously in use as a petrol station, the applicant has not submitted any details of hazardous materials that could be on the site.
- The proposed development will increase the spread of the Covid 19 virus.
- Anti-social behaviour will occur in open space/seating area at the front of development.

## **4.0 Planning History**

### **4.1. Appeal Site**

4.1.1. There has been 1 no. previous application pertaining to the subject site of relevance.

**ABP Ref. ABP-307608-20**

This application involved a proposal for a strategic housing development involving: (a) demolition of all one storey, with part mezzanine, buildings (1,164 square metres) and certain boundary walls; and (b) construction of a two-five storey building, with setback fourth floor level, all over partial basement level, 6,687sqm build-to-rent shared living residential development, comprising 201 no. bedspaces (147 no. single occupancy bedrooms including 5 no. accessible bedrooms, and 27 no. double occupancy bedrooms).

The development was refused by the Board on 2<sup>nd</sup> November 2020 for the following reasons:

- 1. Having regard to the location of the site, the Board is not satisfied that, given the lack of any major employer within the area, limited public transport provisions and its location away from the city centre, that sufficient justification has been provided to permit the proposed development and considers that city centre and town or major employment centre locations as outlined in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in March 2018, are the most appropriate locations for shared accommodation developments. These locations offer residents of such schemes a wide range of social and physical infrastructure, amenities, a range of public transport opportunities as well as concentrations of employment. The proposed development would not be consistent with the transport strategy of the Dublin Transport Authority. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2. Having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area. The proposed development, by reason of its mass and scale and its positioning on the site significantly forward of the adjacent buildings, would constitute an obtrusive feature in views along Harold's Cross Road and would fail to integrate with the surrounding streetscape. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*



## 4.2. Adjacent Sites

4.2.1. There have been no previous applications on sites adjacent to the subject site of relevance.

## 4.3. Sites in the Vicinity

4.3.1. There have been 2 recent applications in the vicinity of the subject site that are pertinent to the current proposal. These are summarised below.

### ***PA Reg. Ref. 3026/19 (Appeal Reference ABP-305695-19)***

This application related to a proposal for demolition of the remaining buildings on site, construction of a mixed-use development of retail (177 square metres), offices (199 square metres) and 91 dwelling units (4 studios, 29 one bed units and 58 two bed units) in 3 no. five-storey blocks over an underground car parking area featuring 93 cars, plant areas and bin storage facilities. The applicable site is located further north of the current application at Classic Cinema Site, at Harolds Cross Road, Dublin 6W.

Permission was granted by Dublin City Council in September 2019. The Planning Authorities decision was subsequently appealed to An Bord Pleanala by a third party (Appeal Reference ABP-305695-19). The Board, concluding that the proposed development would be acceptable, granted permission for this application in March 2020.

### ***PA Reg. Ref. 2710/14 (Appeal Reference PL.29S.244337)***

This application related to a proposal for demolition of all existing buildings and construction of 63 no. dwellings, 1 no. single storey detached retail unit and 35 no. surface car parking spaces. The applicable site is located further south of the current application at St. Pancras Works, Mount Tallant Avenue, Terenure, Dublin 6W.

Permission was granted by Dublin City Council in December 2014. The Planning Authorities decision was subsequently appealed to An Bord Pleanala by a third party (Appeal Reference PL.29S.244337). The Board, concluding that the proposed development would be acceptable, granted permission for this application in May 2015.

There have been numerous amending applications including an increase in the number of apartments (under PA Reg. Refs. 4038/17 and 2134/18) and an additional floor to the permitted 4-storey apartment block fronting Harold's Cross Road (under PA Reg. Ref. 2134/18).

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2016-2022

#### 5.1.1. Land Use Zoning

The application site and adjoining lands are zoned 'Z1' - Sustainable Residential Neighbourhoods, with a stated objective '*to protect, provide and improve residential amenities.*' Residential is a permissible use under this zoning objective.

#### 5.1.2. Other Relevant Sections/ Policies

The following policies are considered relevant to the consideration of the subject proposal:

##### **Section 4.5.3.1 – Policy SC13:**

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

##### **Section 5.5.2 – Policy QH5:**

*'To promote residential development addressing any shortfall in housing provision through active land management and a co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration area, vacant sites and under-utilised sites.'*

**Section 5.5.2 – Policy 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’.*

**Section 5.5.2 – Policy QH8:**

*‘To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.’*

**Section 8.5.6 – Policy MT17:**

*‘To provide for sustainable levels of car parking and car storage in residential schemes in accordance with development plan car parking standards (section 16.38) so as to promote city centre living and reduce the requirement for car parking.’*

**Section 8.5.6 – Policy MT18:**

*‘To encourage new ways of addressing the parking needs of residents (such as car clubs) to reduce the requirement for car parking.’*

**Section 16.2.2.2 Infill Housing:**

*‘Having regard to policy on infill sites and to make the most sustainable use of land and existing urban infrastructure, the planning authority will allow for the development of infill housing on appropriate sites. In general, infill housing should comply with all relevant development plan standards for residential development; however, in certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed.*

*Infill housing should:*

- *Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.*
- *Comply with the appropriate minimum habitable room sizes.*

- *Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.'*

### **Section 16.5 Plot Ratio**

For 'Z1' zoned lands, the development plan sets indicative requirements of 0.5-2.0 for plot ratio. A higher plot ratio may be permitted in certain circumstances such as:

- Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed.
- To facilitate comprehensive re-development in areas in need of urban renewal
- To maintain existing streetscape profiles.
- Where a site already has the benefit of a higher plot ratio.
- To facilitate the strategic role of institutions such as hospitals.

### **Section 16.6 Site Coverage**

For 'Z1' zoned lands, the development plan sets indicative requirements of 45%–60% for site coverage.

### **Section 16.7.2 Building Heights**

In the case of the low rise outer city development, a maximum height of 16 metres is specified for residential development and commercial development.

### **Section 16.10.1 Residential Quality Standards – Apartments**

### **Section 16.10.3 Residential Quality Standards – Apartments and Houses**

This section contains standards under the following headings that shall apply to proposed residential development: - public open space, safety and security and acoustic privacy. In the context of public open space, it states that '*the design and quality of public open space is particularly important in higher density areas*' and requires that, in the context of new residential developments, 10% of the site area shall be reserved for public open space provision. Section 16.3.4 goes on to state that in the event that the site is considered by the planning authority to be too small or inappropriate (because of site shape or general layout) to fulfil useful purpose in this regard, then a financial contribution towards provision of a new park in the area,

improvements to an existing park and/or enhancement of amenities shall be required (having regard to the City's Parks Strategy).

### **Section 16.38 Car Parking Standards**

A maximum car parking rate of 1.5 spaces per residential unit is specified for sites located within Area 3 as identified within Map J of the Dublin City Development Plan 2016-2022.

### **Section 16.39 Cycle Parking Standards**

A minimum bicycle parking rate of 1 one space per residential unit is specified for residential developments.

## **5.2. Dublin City Development Plan 2022-2028**

5.2.1. Dublin City Council has started the preparation of a new Dublin City Development Plan for the period 2022 to 2028. It is understood that Stage 2 of public consultation on the draft Development Plan finished on 14<sup>th</sup> February 2022.

## **5.3. Regional Planning Policy**

### **5.3.1. Regional Spatial and Economic Strategy for the Eastern and Midlands Area, 2019**

The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Area (adopted June 2019) provides a framework for development at regional level. The RSES encourages promotes the regeneration of our cities, towns and villages by making better use of under-used land and buildings within the existing built-up urban footprint. The following Regional Policy objectives are noted in particular:

RPO 3.2 Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

RPO 4.3 Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

## 5.4. National Policy/Section 28 Ministerial Guidelines

### 5.4.1. National Planning Framework 2018-2040

The National Planning Framework – Project Ireland 2040 was published in February 2018. This document will guide strategic planning and development for the country over the next 20+ years, to ensure the population grows in a sustainable manner (in economic, social and environmental terms). National Strategic Outcome 1, Compact Growth, recognises the need to deliver a greater proportion of residential development within existing built-up areas. Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

A number of key National Policy Objectives are noted as follows:

- National Policy Objective 2A identifies a target of half of future population growth occurring in the cities or their suburbs.
- National Policy Objective 3A directs delivery of at least 40% of all new housing to existing built-up areas on infill and/or brownfield sites.
- National Policy Objective 13 is that, in urban areas, planning and related standards including in particular building 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.
- National Policy Objective 33: 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 promotes increased densities through measures including infill development, area or site-based regeneration and increased building height.

#### 5.4.2. **Project Ireland 2040 National Planning Framework**

The National Planning Framework (NPF) is a high-level strategic plan shaping the future growth and development of Ireland to 2040. The NPF includes 75 no. National Policy Objectives. The following objectives are of note in this instance:

NPO 3(a) Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

NPO 13 In urban areas, planning, and related standards, including 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.

NPO 35 To increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

#### 5.4.3. **Housing for All – A New Housing Plan for Ireland (2021)**

A multi-annual, multi-billion euro plan which will improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- to purchase or rent at an affordable price.
- built to a high standard and in the right place.
- offering a high quality of life.

This plan requires the public and private sector to work together to reach the overall target of 300,000 homes by 2030, equating to an average of 33,000 homes per year. Of these 33,000 homes, 6,500 will comprise new private rental homes. Pathway 1, among other things, seeks a mixture of affordable rental options in urban areas near concentrations of employment.

#### **5.4.4. Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (DoEHLG 2009), and the accompanying Urban Design Manual**

These guidelines encourage higher densities on residential zoned lands, particularly on inner suburban and infill sites and along public transport corridors, identifying minimum densities of 50 / ha in such corridors, subject to appropriate design and amenity standards. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

Section 4.21 encourages a more flexible approach to quantitative open space standards with greater emphasis on the qualitative standards. Close to the facilities of city and town centres or in proximity to public parks or coastal and other natural amenities, a relaxation of standards could be considered. Alternatively, planning authorities may seek a financial contribution in lieu of public open space within the development.

#### **5.4.5. Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020)**

These guidelines provide detailed guidance and policy requirements in respect of the design of new apartment developments. Where specific planning policy requirements are stated in the document these are to take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone planning schemes.

In terms of identifying the types of locations within cities that may be suitable for apartment development the guidelines note the following:

Central and/or Accessible Urban Locations - such locations are generally suitable for small-to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, including:



- Sites within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;
- Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and
- Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.

These guidelines contain several specific requirements with which compliance is mandatory. Section 5 specifically relaxes certain aspects of these requirements in the case of Build To Rent schemes. However, particular requirements in the management and communal nature of the development are set out Specific Planning Policy Requirements (SPPRs) 7 and 8. The standards permitted by SPPR8 are contingent on meeting the requirements of SPPR7 in the first instance. The following SPPRs are relevant to the subject proposal:

- **Specific Planning Policy Requirement 7:** BTR development must be: (a) described in the public notices associated with a planning application specifically as a 'Build-To-Rent' housing development that unambiguously categorises the project (or part of thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such; (b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:
  - (i) Resident Support Facilities - comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.
  - (ii) Resident Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.

- **Specific Planning Policy Requirement 8:** For proposals that qualify as specific BTR development in accordance with SPPR 7:
  - (i) No restrictions on dwelling mix (as specified in Specific Planning Policy Requirement 1) and all other requirements of these Guidelines shall apply, unless specified otherwise;
  - (ii) Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development;
  - (iii) There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures;
  - (iv) The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;
  - (v) The requirement for a maximum of 12 apartments per floor per core (as specified in Specific Planning Policy Requirement 6) shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations.
- **Specific Planning Policy Requirement 3:** The following minimum apartment floor areas are specified: - Studio apartment - 37sq.m; 1-bedroom apartment - 45sqm; 2-bedroom apartment (4 persons) - 73sq.m; and 3-bedroom apartment (5 persons) 90sq.m. 2-bedroom apartment (3 persons) may also be considered, particularly in the context of certain social housing schemes such as sheltered housing. They must have a minimum floor area of 63sq.m. Minimum floor areas are also outlined at Appendix 1 in relation to minimum aggregate floor areas for living/dining/kitchen rooms, and minimum widths for

the main living/dining rooms; minimum bedroom floor areas/widths; and minimum aggregate bedroom floor areas.

- **Specific Planning Policy Requirement 4:** Sets out the minimum number of dual aspect apartments to be provided in any scheme; a minimum of 33% dual aspect units are required in more central and accessible locations, a minimum of 50% in a suburban or intermediate location and on urban infill sites of any size or on sites of up to 0.25ha planning authorities may exercise discretion to allow lower than the 33% minimum.
- **Specific Planning Policy Requirement 5:** Specifies minimum ground level apartment floor to ceiling heights of 2.7 metres.
- The following minimum requirements for storage areas are set out in Appendix 1: - Studio apartment - 3sq.m; 1-bedroom apartment - 3sq.m; 2-bedroom apartment (3 persons) - 5sq.m; 2-bedroom apartment (4 persons) - 6sq.m; and 3-bedroom apartment - 9sq.m. As per Specific Planning Policy Requirement 8, flexibility exists in relation to this requirement in the context of Build-to-Rent developments.
- The following minimum requirements for private amenity space are set out in Appendix 1: - Studio apartment - 4sq.m; 1-bedroom apartment - 5sq.m; 2-bedroom apartment (3 persons) - 6sq.m; 2-bedroom apartment (4 persons) - 7sq.m; and 3-bedroom apartment - 9sq.m. Further to this, paragraph 3.37 of the Apartment Guidelines states that balconies should have a minimum depth of 1.5 metres. As per Specific Planning Policy Requirement 8, flexibility exists in relation to this requirement in the context of Build-to-Rent developments.
- The following minimum requirements for communal amenity space are set out in Appendix 1: - Studio apartment - 4sq.m; 1-bedroom apartment - 5sq.m; 2-bedroom apartment (3 persons) - 6sq.m; 2-bedroom apartment (4 persons) - 76sq.m; and 3-bedroom apartment - 9sq.m. As per Specific Planning Policy Requirement 8, flexibility exists in relation to this requirement in the context of Build-to-Rent developments.
- The following requirements regarding bicycle storage are set out at paragraph 4.17: - 1 cycle storage space per bedroom (for studio units, at least 1 cycle

storage space shall be provided) and 1 visitor cycle parking space per 2 residential units.

#### **5.4.6. Urban Development and Building Heights - Guidelines for Planning Authorities (2018)**

These guidelines set out national planning policy guidance on building heights in relation to urban areas. Greatly increased levels of residential development in urban centres and significant increases in the building height and overall density of development are not only to be facilitated, but are to be actively sought out and brought forward by the planning processes and particularly so at local authority and An Bord Pleanála levels. Building height is identified as an important mechanism to delivering 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.

There is therefore a presumption in favour of buildings of increased height in town / city cores and in other urban locations with good public transport accessibility. In this regard, the Guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels.

#### **5.4.7. Design Manual for Urban Streets (2019)**

The need to balance the needs of 'Place' and 'Movement' in relation to roads and streets informs the document. Section 4.2.3 notes that designers should seek to promote active street edges to provide passive surveillance of the street and promote pedestrian activity. Increased pedestrian activity has a traffic-calming effect as it causes people to drive more cautiously.

#### **5.4.8. Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009)**

These guidelines introduce comprehensive mechanisms for the incorporation of flood risk identification, assessment and management into the planning process. They provide guidance in relation to development proposals in areas at risk of flooding.

## 5.5. Natural Heritage Designations

5.5.1. There are no Natura 2000 sites within the boundary of the appeal site nor are there any Natura 2000 sites directly abutting the appeal site or within the immediate context of the site. The closest sites and those within the zone of influence of the proposed development are:

- South Dublin Bay SAC (Site Code 000210) – c. 4.6km to the east.
- North Dublin Bay SAC (Site Code 000206) – c. 8km to the northeast.
- North Bull Island SPA (Site Code 004006) – c. 7.5km northeast.
- South Dublin Bay & River Tolka Estuary SPA (Site Code 004024) - c. 4.6km east.
- Rockabill to Dalkey Island SAC (Site Code 003000) – c. 12.5km east of the site.

5.5.2. The application site is located within the existing built-up area and is served by mains water and sewerage services. There is an indirect hydrological connection between the application site and these European sites in terms of surface water and wastewater. The application site does not contain any features of conservation interest and the development will not result in the direct loss of any habitat identified above or the loss of any ex-situ foraging, breeding or roosting site for species of conservation interest. There are other sites within a wider radius of the application site, however, having regard to the separation distances and the lack of pathway between these sites and the application site they are screened out.

5.5.3. The application is accompanied by a Screening Report for Appropriate Assessment, prepared by a suitably qualified person which concludes a Stage 2 assessment is not required in this instance.

## 5.6. EIA Screening

5.6.1. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units; and

- Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere ('business district' means a district within a city or town in which the predominant land use is retail or commercial use).

5.6.2. It is proposed to provide 50 apartments on the subject site which is well below the threshold of 500 dwelling units noted above. The site has an overall stated area of 0.2319ha and is located within an existing built-up area, but not in a business district given the predominance of residential uses. The site area is, therefore, well below the applicable threshold of 10ha. The site to which this appeal pertains is a brownfield site currently comprising a series of single and double storey buildings and forecourt/yard/carpark areas associated with the site's previous use as Kenilworth Motors. The provision of residential development on site would not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural heritage or cultural heritage and the proposed development is not likely to have a significant effect on any European Site (as concluded below under Section 7 of this report) and there is no direct hydrological connection present such as would give rise to significant impact on nearby watercourses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be marginal.

5.6.3. Having regard to the nature and scale of the proposed development and its location in a serviced urban area 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**

The grounds of appeal can be summarised as follows:

- The design, height, scale, bulk and mass of the proposed development would visually dominate and harm the surrounding streetscape at this location. In terms of urban design, the provision of ground floor apartments/associated amenity spaces fronting Harolds Cross Road results in a poor quality street presentation.
- The proposed scheme would contravene the Dublin City Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.
- The proposed development would overlook adjacent residential properties and would ignore the residential amenities of the adjoining properties through overlooking and visual impact.
- The proposed development would be contrary to the National Planning Policy Framework and Ministerial Guidelines which promote innovative and qualitative design solutions.
- The proposed density is excessive and contrary to the proper planning and sustainable development of the area.
- The residential amenity of future residents of the development would be substandard and contribute little to the established residential community of the area. The dedicated amenities/facilities are poorly designed and poorly located within the development. Further to this, the no. of dual aspect apartments proposed falls short of the 50% requirement set out in the Apartment Guidelines and a no. of ground floor apartments look directly out on to Harolds Cross Road.
- Car parking provision is too low for this inner suburban non-central location. The deficiency in car parking provision would exacerbate existing under provision in unregulated parking in the area.
- The Build-to-Rent model mitigates against a sustainable housing model, home ownership and promotes a transient and unsustainable housing model which is unsuitable for this location. The concept of Build-to-Rent living fundamentally suited to highly concentrated urban employment areas where demand for short term accommodation is at its highest. Harold's Cross cannot be described as a

dynamic urban employment area as outlined in the guidelines. A well-designed owner-occupier apartment development would be better suited to this location.

- The appellant refers to a similar proposal for 55 BTR apartments in Terenure Village (Reg. Ref. 4702/18) that was rejected by the Council and the Board.

## 6.2. Applicant Response

The applicant's response to the appeal can be summarised as follows:

- Contrary to the appellant's inference, BTR developments are supported by national policy and there are no restrictions on either size or location of such developments.
- In response to the appellants' suggestion that BTR will only cater for short term accommodation and there is no demand for that in an area such as Harold's Cross, the applicant advises that the standard leases to be offered within the scheme will be a year long, with the option to further extend that period, and the due to its high quality design and provision of a residential amenities and a strong central management system, it is envisaged the scheme will be attractive to tenants and occupants will remain in situ.
- The applicant refutes the appellants suggestion that the residents' amenities and facilities are poorly designed and located and that the required resident facilities are absent from the scheme. This commentary is based on a misinterpretation of the apartment guidelines. SPPR7(b) requires the provision of communal and recreational amenities under two categories and lists the type of facilities falling under each category, however, SPPR7(b) does not provide a mandatory list of facilities that must be provided. The development is provided with concierge and waste facilities in the context of the resident support facilities required under SPPR7(b). Communal laundry facilities have not been provided as the apartments are appropriately sized to accommodate washing machines. In the context of the resident services and amenities required under SPPR7(b), the scheme includes a gym, a lounge and a hot desk area which will support the development of a community within the scheme.



- The subject site is classified as a 'Central and/or Accessible Urban Location' which indicates the site is capable of accommodating higher density apartment development. Dublin City Council, in completing their assessment agreed with this classification. The Board also reached this conclusion in the context of the previous application pertaining to the site.
- Harold's Cross is an inner suburban area with a wide range of local facilities and services in addition to good transport connections and a short cycle distance from the city centre. There are multiple employment opportunities within short walking and cycling distance of the subject site. It is ideally placed to accommodate additional higher density residential development.
- In respect of design and scale, we reiterate that the design standards of the Apartment Guidelines are met in full and that the assessment impacts demonstrate that the proposal will not have an undue impact on surrounding residential developments.
- With regards to car parking, the proposed provision is suitable having regard to the fact that the subject site is within a 'Central and/or Accessible Urban Location' and located immediately adjacent to the Harold's Cross Quality Bus Corridor, thus is well serviced by public transport. Further to this, the scheme will be a centrally managed BTR scheme and it will be made clear to residents that there is very limited car parking/leases will not include private car parking. The proposal also includes 3 no. car club parking spaces and there are more such spaces in the surrounding area.
- With regards to dual aspect, as the subject site is within a 'Central and/or Accessible Urban Location' the applicable requirement is 33% and not 50% as started by the appellants. The scheme exceeds the applicable requirement, providing 40% dual aspect apartments and there are no single aspect north facing apartments, therefore, providing a high level of residential amenity. Further to this, the assessments of sunlight and daylight demonstrate full compliance with the relevant guidance targets for both units and the communal open spaces.

- The provision on one-bed units is appropriate having regard to the high proportion of traditional family homes in the area. Further to this, there is scope for apartments to be changed to 2-bed units if required.
- In response to the appellants' suggestion that the subject site should accommodate a lower density scheme, the applicant notes that there is no upper limit on density provided by either the Apartment Guidelines or the Dublin City Development Plan, 2016-2022. If a low density was proposed, it would be likely be refused due to underutilisation of a serviced site in this central location. Dublin City Council consider the proposed density appropriate. The proposed development will contribute to the physical consolidation of the city optimising the efficient use of serviced land.
- With regards to scale, height and design, the proposed development has been carefully considered and subject to pre-application consultation with Dublin City Council. The height of the building (15.1 metres) is less than the maximum permissible height under the Development Plan and the building steps down at the sides in order to transition in scale to adjoining structures. The building mass is further mitigated by the large setbacks from Harold's Cross Road and tree planting in this space. It will sit comfortably on Harold's Cross Road which is characterised by a wide variety of commercial and residential buildings with a range of building heights and scales, in particular St. Pancras and Kenilworth Manor. The irregular shape of the site has further allowed the mass of the building to be broken up through the use of materials, setbacks and projections. Dublin City Council were supportive of the proposed design.
- The appellants refer to a BTR scheme located over 1km to the south which was refused by the Council and the Board as a precedent for the refusal of the subject scheme. The appellants do not outline why they consider this application to be comparable to the subject proposal nor is it outlined why the decision is a precedent the Board should follow. Having reviewed both decisions, it appears the reasons for refusal relate to site-specific considerations relating to the design of the scheme and does not relate to the proposed BTR units on site. It is submitted that this case is not relevant to the subject proposal as the context of the two sites is quite different.

### 6.3. Planning Authority Response

The Planning Authority did not respond to the grounds of appeal.

### 6.4. Observations

An observation on the third party appeal was lodged by the Harold's Cross Village Community Council. The issues raised therein can be summarised as follows:

- The subject site is an unsuitable location for a Build-To-Rent scheme given the absence of a dynamic employment market in the area. In the absence of this, proposed temporary accommodation will become more permanent in nature.
- There is no evidence of demand for further rental apartments in the area particularly in light of a high concentration of BTR development being permitted in the area, there is an undersupply of for purchase in the area and the scale of development is inconsistent with that envisaged by the Apartment Guidelines. Further to this, the proposed development does not satisfy the areas need for properties to facilitate down-sizing and family homes.
- The proposed development offers limited residential amenity and amenities provided are poorly designed.
- Car parking provision is considered inadequate on the basis of public transport services and car parking in the surrounding area.
- The aspect/orientation of the proposed development is poor and fails to meet the dual aspect requirement set out in the Apartment Guidelines.
- The proposed density is excessive.
- The scale, height, bulk and massing of the proposed building is incongruous and dominant on the streetscape, which is contrary to Section 14.7 of the Development Plan, and will negatively impact on the residential amenities of surrounding properties, in particular Kenilworth Manor.
- The proposed development will generate overlooking of existing dwellings at Kenilworth Manor.

- In combination with the intervening narrow street, the 4 storey height of the proposed development will create an overbearing impact on the street and an oppressive public realm. The development potential of property to the north will also be severely compromised.
- The precedent noted by the appellant, in relation to Reg. Ref. 4702/18/ABP-303996-19, is referred to.

## 6.5. Further Responses

- None.

## 7.0 Assessment

From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- Principle of Development and Land Use.
- Residential Density.
- Design, Layout and Height/Impact on Visual Amenities.
- Residential Amenity of Proposed Development.
- Residential Amenity of Adjoining Properties.
- Access, Traffic and Parking.
- Open Space Provision.
- Flooding.
- Other Matters.
- Appropriate Assessment.

### 7.1. Principle of the Development and Land Use

7.1.1. The appeal site is located within an area featuring a mix of residential, commercial, community and recreational uses, with the immediate abutments to the north and south and sites on the opposite side of Harolds Cross Road comprising residential properties. As previously discussed, the development site lies within an area of suburban residentially zoned land. The table included in Section 14.8.1 of the Development Plan identifies 'residential' as a permissible use under Zoning Objective Z1. Having regard to the site context and the zoning objective for the site, I am satisfied

that the principle of developing residential units at this location is generally acceptable in principle provided the proposed development provides adequate residential amenity, adequately safeguards the amenities of the adjoining properties, and would not result in a traffic hazard. These matters are considered in the subsequent sections of this report.

7.1.2. More specifically, the proposed development comprises 50 no. Build-to-Rent apartments. Concerns are raised by the appellants/objector regarding the tenure/accommodation model of the proposed development. The appellants contend that the concept of Build-to-Rent living is suited to highly concentrated urban employment areas where demand for short term accommodation is at its highest and that Harold's Cross does not constitute a dynamic urban employment area as outlined in the guidelines. They state that a well-designed owner-occupier apartment development would be better suited to this location. The observer expresses the same view regarding Harold's Cross as an employment area and contend that there is no evidence of demand for further rental apartments in the area particularly in light of a high concentration of BTR development being permitted in the area.

7.1.3. As previously discussed in Section 4.1, an application for a strategic housing development involving the construction of a shared living residential development, comprising 201 no. bedspaces on the subject site was previously refused by the Board in November 2020. One of the refusal reasons pertained to the subject site's location relative to the City Centre and major employers and limited nature of public transport serving the area. In the context of consideration of the subject proposal, I think it would be beneficial to discuss the changes that have occurred at National policy level in the intervening period since this previous planning application was considered. While the Board's previous decision was made under the provisions of the current Dublin City Development Plan 2016-2022, I note that the Sustainable Urban Housing: Design Standards for New Apartments were updated in December 2020, replacing the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018, in the intervening period. These updated Apartment Guidelines identified 'shared accommodation' as having a limited 'niche' role to play in the provision of the new residential accommodation within Ireland's cities and deemed there to be sufficient shared accommodation/co-living units either permitted

or subject to consideration within the planning system. In light of this, Specific Planning Policy Requirement 9 was revised to include a presumption against granting planning permission for shared accommodation/co-living development unless the proposed development is either: - (i) required to meet specific demand identified by a local planning authority further to a Housing Need and Demand Assessment (HNDA) process; or, (ii) on the date of publication of these updated Guidelines, a valid planning application to a planning authority, appeal to An Bord Pleanála, or strategic housing development (SHD) planning application to An Bord Pleanála, in which case the application or appeal may be determined on its merits. No such presumption has been included in the 2020 Apartment Guidelines in the context of Build-to-Rent apartment proposals. The evolution of planning policy pertaining to shared accommodation is indicative of the more onerous requirements that exist in relation to this tenure/accommodation model in comparison with Build-to-Rent apartment developments.

7.1.4. I now turn to the appropriateness of the proposed Build-to-Rent apartment development on the subject site having regard to its locational context. Section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 (Apartment Guidelines 2020) provides guidance on the Build-to-Rent sector. They define Build-to-Rent as *“purpose built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord”*. Paragraph 2.2 of the Apartment Guidelines 2020 identifies urban areas as the most appropriate location for apartments, in particular in *‘existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services’*.

7.1.5. With regards to the suitability of the subject site for a Build-to-Rent development, I firstly note that in terms of accessibility to public transport the appeal site is currently well served in this regard as it fronts on to Harold’s Cross Road which is a Quality Bus Corridor served by Bus Routes No. 16, 16D and 49 and is also proximate to Dublin Bus Routes No. 18, 83 and 83A, running along Kenilworth Park. Moving forward, the Bus Connects Network Bus Route 85 is proposed to run along Harold’s Cross Road and Orbital Bus Route S2 and Bus Route 82 will run along Kenilworth Park. In light of

this, under the Apartment Guidelines 2020, the site would be categorised as a 'Central and/or Accessible Urban Location'.

7.1.6. In terms of in terms of accessibility to services and amenities, I note that the application is accompanied by a Social Infrastructure Audit, prepared by Tom Phillips + Associates, which identified more than 450 no. education, childcare, community/cultural, healthcare, religious and retail facilities, as well as recreational grounds/sports club within close proximity (a 1-1.5 kilometre radius/c. 20-30 minute walking distance) to the subject site. In terms of retail centres encompassing a mix of social infrastructure facilities, I note that the subject site is located within 500 metres of Harold's Cross, which is identified as a Level 4 Retail Centre in the retail hierarchy for Dublin City included in the Retail Strategy for the Greater Dublin Area 2008-2016. It is also proximate (within c. 1km) of the Kimmage, Terenure and Rathgar Level 4 Retail Centre, as well as the Rathmines Village which is identified as a Level 3 Retail Centre in this strategy. There is also 1 large shopping centre (the Swan Shopping Centre in Rathmines), as well as 9 no. other supermarkets and 7 no. convenience shopping facilities within a c. 1.5 metre radius of the subject site. The proposed development also provides on-site resident support facilities and resident services and amenities in accordance with the requirements of Specific Planning Policy Requirement 7 (the appropriateness of which will be considered in a subsequent section of this report).

7.1.7. Employment opportunity wise, there are a no. of significant employment locations within 2km of the subject site, including Our Lady's Hospice, Harold's Cross; St. Luke's Hospital, Rathgar; Lucena Clinic, Rathgar; and Griffith College, Dublin 8. More broadly, the subject site is located within 1.3km of the canal (which marks the boundary to the area considered to be Dublin City Centre), 3km from Stephen's Green and approximately 4.5km from Grand Canal Docks. These areas offer a wide array of employment opportunities to residents of the subject scheme.

7.1.8. Having regard to the location of the site close to the City Centre, its access to public transport services and its proximity to services and amenities/employment sources, I am satisfied that the principle of a Build-to-Rent development specifically is suitable and justifiable at this location. The proposed Build-to-Rent scheme is appropriate in this instance as it would provide an additional housing tenure in the wider Harold's

Cross area which is professionally managed and would support the provision of long-term residents.

7.1.9. I now turn my attention to the observer's contention that there is no evidence of demand for further rental apartments in the area, particularly in light of a high concentration of BTR development being permitted in the area. I firstly note that the observer has submitted no information regarding Build-to-Rent developments approved in the area to substantiate their claim regarding the supposed proliferation of this tenure type. Upon review of the Dublin City Council and An Bord Pleanála's Planning Register, it would appear that there is no evidence to suggest a proliferation of either existing or proposed BTR developments in the immediately surrounding area. The closest development to the subject involving Build-to-Rent apartments I could find was at the Former Player Wills site and undeveloped Land in Ownership of Dublin City Council, South Circular Road, Dublin 8, which is located c. 1.7km north of the subject site as the crow flies. A SHD development (ABP Ref. ABP-308917-20) including 492 no. Build to Rent apartments having been approved by the Board on 15<sup>th</sup> April 2021. It is my view that the predominant form of housing in the area remains traditional housing serving general needs (including social housing) and I consider that the development will bring further choice and diversity to the housing market in this area.

7.1.10. From a procedural perspective, I am satisfied that the development meets the specific requirements of Specific Planning Policy Requirement 7 (SPPR 7) included in the Sustainable Urban housing: Design Standards for New Apartments 2020 (Apartment Guidelines 2020) with regards to Build-to-Rent development. SPPR 7 requires that the proposed development is advertised as such in public notices. This has been done by the applicant. SPPR 7 also requires restrictions in relation to ownership, operation and sale for a period of 15 years. The applicant has submitted a draft Section 47 legal covenant with the application in accordance with the requirements under SPPR 7. Use of the proposed development as a long-term rental housing scheme can be restricted by way of condition if permission is granted. In addition, I highlight to the Board that a Building Life Cycle Report, prepared by Shipsey Barry Architects, was submitted with the application in accordance with the requirements set out in Section 6.13 of the Apartment Guidelines 2020 which states that this report should have regard to the long-term management and maintenance of the proposed development.



## 7.2. Residential Density

- 7.2.1. The appellants and observer contend that the density of the proposed development is excessive and suggest that the subject site should accommodate a lower density scheme. The applicant argues that the subject site is classified as a 'Central and/or Accessible Urban Location' which indicates the site is capable of accommodating higher density apartment development and this was the view shared by Dublin City Council in the context of the subject application and the Board in the context of the previous application pertaining to the site. They also contend that if a lower density was proposed, it would be likely be refused due to underutilisation of a serviced site in this central location.
- 7.2.2. With regards to density, the National Planning Framework recommends compact and sustainable towns/cities, brownfield development and densification of urban sites. More specifically, National Policy Objective 35 contained therein seeks an increase in residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights. National policy, including the Sustainable Residential Development in Urban Areas (2009), promotes residential densities in urban areas in close proximity to services and public transport. This sentiment is echoed in the Dublin City Development Plan, 2016–2022, with Policy SC13 promoting sustainable densities particularly in public transport corridors. In this regard, the appeal site is currently well served by public transport as it fronts on to Harold's Cross Road which is a Quality Bus Corridor served by Bus Routes No. 16, 16D and 49 and is also proximate to Dublin Bus Routes No. 18, 83 and 83A, running along Kenilworth Park. Moving forward, the Bus Connects Network Bus Route 85 is proposed to run along Harold's Cross Road and Orbital Bus Route S2 and Bus Route 82 will run along Kenilworth Park. In light of this, under the Sustainable Urban Housing; Design Standards for New Apartments, Guidelines for Planning Authorities, 2020, (the Apartment Guidelines), the site would be categorised as a 'Central and/or Accessible Urban Location'. Such locations are deemed to be suitable for small-to-large-scale (will vary subject to location) and higher density development that may wholly comprise apartments.

7.2.3. The 50 apartments proposed on this 0.2155ha site (excluding DCC land forming part of the application site), equates to a density of 232 units per hectare. Given the site's location in a serviced residential area, its proximity to public transport services and the infill nature of the subject site, the proposed density is considered appropriate in this instance. The proposed density for the application site complies with the provisions of the Development Plan and Government policy seeking to increase densities and, thereby, deliver compact urban growth. Were a lower density development to be introduced on the subject site, as per the suggestions of appellants/observer, it would constitute underutilisation of a residentially zoned, serviced site which is well served by public transport and be contrary to national and regional planning policy.

7.2.4. In terms of consistency with 'Plot Ratio' and 'Site Coverage' standards, the proposed development would equate to a plot ratio of 2.31 and a site coverage of 59%. Therefore, the proposed development is compliant with Development Plan policy regarding site coverage. The proposed plot ratio exceeds the applicable development plan standards. This is considered appropriate in this instance given the subject proposal involves the comprehensive re-development of the subject vacant brownfield site which is in need of urban renewal, the minimal nature of the exceedance and in light of national planning policy guidance issued in the intervening period since adoption of the Dublin Development Plan 2016-2022.

### **7.3. Design, Layout and Height/Impact on Visual Amenities**

7.3.1. The appellants argue that the design, height, scale, bulk and mass of the proposed development would visually dominate and harm the surrounding streetscape at this location and that the proposed development has not overcome the previous refusal reasons under ABP Ref. ABP-307608-20 in this regard. Similar concerns are raised by the observer, and they also contend that the proposed development is contrary to Section 14.7 of the Development Plan in this regard. The applicant contends that the proposed development has been carefully considered and will sit comfortably on Harold's Cross Road. They state the building height is less than the maximum permissible height under the Development Plan, the building steps down to transition in scale to adjoining structures, the building mass is further mitigated by the large setbacks from Harold's Cross Road/tree planting and the irregular shape of the site has further allowed the mass of the building to be broken up through the use of materials, setbacks and projections.

7.3.2. Before considering the appropriateness of the design, layout and height of the subject proposal, I think it beneficial to discuss the differences that exist between the subject proposal and that considered previously under ABP Ref. ABP-307608-20 in terms of design, layout and height. When the current application is compared to that previously refused by the Board, the current proposal at involves a 1,701sqm reduction in gross floor area, a 5 no. resident/1 no. car club car parking space increase in car parking provision, a 296.7sqm increase in open space provision (an 3.7sqm increase in communal open space provision and provision of a 293sqm public open space area along the Harolds Cross Road frontage) and a 3 metre increase in the building setback from Harold's Cross Road. Further to this, the height strategy adopted in relation to the proposed development (i.e. stepping up in height from 2 to 3 to 4 to 5 storeys in height with the highest built form elements featuring centrally on the site and the building stepping down adjacent to neighbouring properties to the north and adjacent to Harold's Cross Road) differs to that adopted on the previous proposal which mostly comprised of a 5 storey over basement which reduced to 2 storeys to the west (rear) of the site. I consider that the changes adopted under the current application are significant/material so as to warrant or justify a change in the previous decision relating to the site. Irrespective of this, the proposed development will be assessed on its own merit.

7.3.3. With regards to building line/streetscape presentation, the existing low-rise structures on the site are set-back from the Harold's Cross Road frontage by c. 14 metres, the intervening space featuring a hard-paved forecourt area. To the south of the site, Kenilworth Manor is set-back from its front boundary by a minimum of c. 22 metres and generally follows the building line of Mount Tallant Terrace to the south (a terrace of 6 no. two-storey protected structures). There is a line of mature trees along the roadside boundary of Kenilworth Manor which provides a soft edge to this street at this location. To the north of the site, the building line is varied. Kenilworth Lodge is setback from its front boundary by c. 22 metres, Clareville Lodge by c. 29 metres, Almorea (342 Harold's Cross Road) by c. 20 metres and the Terrace comprising Nos. 332 – 340 Harold's Cross Road by c. 6.5 metres. On the opposite side of Harolds Cross Road, the buildings featuring in the section of road between Rathgar Avenue and Brighton Square adopt setbacks from their front boundary of between 1 and 10 metres. The dwellings immediately opposite the subject site, Nos. 263, 265, 267 and 269

Harold's Cross Road, adopt a setback of c. 4.7 metres, more specifically. The proposed development adopts a minimum setback of 9 metres from the site's front boundary. Although sitting forward of the buildings featuring on the sites to the immediate north and south, the building line is considered appropriate in this instance having regard to the varied building line featuring to the north of the subject site as well, as the opposite side of Harolds Cross Road, and the proposed development's presentation to the Harolds Cross Road. The area to the east of the subject site, will comprise an area of landscaped public open space featuring a row of trees along the street edge which is passively surveilled by a no. of the proposed apartments as well as the communal amenity spaces proposed at second and third floor levels. This will soften the proposed development presentation to Harolds Cross Road and provide a continuation of the green spaces/trees featuring at Kenilworth Manor and Mount Tallant Terrace to the south. Although narrower in depth, the proposed development will result in a marked improvement from the hard-paved forecourt area currently featuring along the site's Harolds Cross Road street frontage.

7.3.4. The proposed development is part two, part three, part four, part five storeys and extends to a maximum height of 14.963 metres. In terms of building height, Section 16.7.2 of the Dublin City Development Plan specifies building heights of up to 16 metres for residential development and commercial development in the case of the outer city developments. As previously mentioned, the Urban Development and Building Heights, Guidelines for Planning Authorities (2018), also promote general building heights of at least three to four storeys. The height of the structure proposed is consistent with Development Plan and National policies in relation to building heights, including the Building Height Guidelines (2018), and is considered to appropriately respond to the adjacent residential dwellings, as will be discussed in the subsequent sections.

7.3.5. I now turn my attention to consideration of the proposed development's potential visual impact on the immediately surrounding area. At present, the subject site comprises a two-storey showroom building facing Harold's Cross Road, set back behind a forecourt area, and single and double height structures to the rear (with a total floor area of 1,164sqm). The buildings featuring on site have been vacant for some time. The question that arises is whether the proposed development can be comfortably

integrated with the development currently featuring on adjoining sites. The area surrounding the subject site currently features a variety of residential, commercial, community and recreational land uses. The subject sites northern and southern boundaries are flanked by Laundry Lane and Kenilworth Park, respectively. To the north of the site, on the opposite side of Laundry Lane, is a two-storey apartment building known as Kenilworth Lodge and further west a two-storey detached dwelling, No. 346A Harold's Cross Road. To the south of the site, on the opposite side of Kenilworth Park, is Kenilworth Manor which comprises a development of 3 storey terraced duplex dwellings to the south of the site and 2 no. two-storey semi-detached houses to the south-west. This road also provides access to Rosary Park Football Grounds which flanks the subject site's western boundary. To the east of the subject site, on the opposite side of Harold's Cross Road are a no. of single and double storey detached and semi-detached dwellings, Nos. 263, 265, 267 and 269 Harold's Cross Road.

7.3.6. Contrary to the arguments made by the appellants and observer, I am of the view that that the proposed development is appropriate in the context of the immediately surrounding area. The subject site is unusual in that 3 of its 4 boundaries (north, south and east) are flanked by roads/lanes and its western boundary abuts a sports grounds (Rosary Park Football Grounds). The proposed development adopts a modulated footprint in response to the site's irregular shape/frontage to these roads/lanes which reduces the overall massing/bulk of the proposed building. The massing of the proposed development is reduced further by way of the varying materials/finishes palette proposed. Where dwellings feature on the opposite side of Laundry Lane/Kenilworth Park/Harolds Cross Road, the proposed building steps down/reduces in height to two, three and four stories with the tallest part of the building adopting generous separation distances from the edges of the site/neighbouring dwellings. In terms of recent developments that have taken place along Harolds Cross Road, 140 metres north of the subject site, a 5 storey mixed use development has been approved at the Classic Cinema Site on Harolds Cross Road, under ABP Reference ABP-305695-19 (this development is currently under construction), and 125 metres south of the subject site, a part 4-part 5 storey apartment block along its Harolds Cross Road frontage (approved under Reg. Ref. 2134/18) has been constructed at St. Pancras Works, Mount Tallant Avenue. Although the buildings featuring on the opposite side

of Harold's Cross Road/adjacent sites to the north comprise of single and double storey dwellings, having regard to the foregoing and in the context of the mixed architectural style of the surrounding area, in my view the proposed development will sit comfortably within the existing and emerging Harolds Cross Road streetscape, as illustrated in the contextual elevations accompanying the application. The proposed building will provide for a modern insertion in this streetscape, which is of a scale and design appropriate to the site and will not significantly detract from the visual amenity of this area.

7.3.7. As previously discussed, the appeal site is highly accessible and well served by public transport, while also being within walking distance of a range of services and amenities, including Kenilworth Square. The proposal is in line with National policy guidance in relation to density and utilising infill sites to support the growth of cities versus their outward expansion, which must be balanced against the evolving character of an area and the existing community. I consider that this two-five storey building can be accommodated without detrimentally impacting to the character and visual amenity of the surrounding area. The potential impact of the proposed development on residential amenity of the surrounding area is subsequently considered in Section 7.5.

7.3.8. With regards to the observer's contention that the proposed development is contrary to Section 14.7 of the Dublin City Development Plan 2016-2022, I note that this section of the development plan relates to Transitional Zone Areas i.e. areas where the zoning objectives applying differ across neighbouring sites. As all the sites abutting/on the opposite side of Harold's Cross Road are zoned 'Z1' - Sustainable Residential Neighbourhoods, as is the subject site, this policy is not applicable in this instance.

#### **7.4. Residential Amenity of Proposed Development**

7.4.1. Both the appellants/observer contend that the residential amenity of future residents of the development would be substandard and contribute little to the established residential community of the area. In particular, they contend that the dedicated amenities/facilities are poorly designed and poorly located within the development.

7.4.2. Having regard to the floor areas, layouts, configurations, aspect and floor to ceiling heights, while being cognisant of the standards within the New Apartment Guidelines (2020), I am satisfied that the proposed development would provide for a suitable and acceptable form of accommodation for future occupants of the proposed apartments.

#### Build-to-Rent (BTR)

7.4.3. The second part of Specific Planning Policy Requirement 7 (SPPR 7) refers to detailed proposals for supporting communal and recreational amenities. As detailed in Section 5.4.5 of this report, these elements are split in to two categories, resident support facilities and resident services and amenities. The proposed development includes internal amenities in the form of a 59.4sqm gym, a 40.6sqm work hub, a 100.6sqm communal multi-purpose room. In terms of facilities, lobbies, concierge and waste facilities are provided. I note that laundry facilities are not provided in the proposed scheme. The applicant in their response to the appeal states that this is the case as the apartments are appropriately sized to accommodate washing machines. The proposed support facilities and amenities are located at ground level adjacent to the development's western entrance. This means that each future occupant would have easy access to amenities as they are needed. Outdoor spaces such as communal and public open space areas are provided at ground, second and third floor levels (the appropriateness of these spaces will be dealt with in subsequent sections of this report). I am satisfied that the quantum and quality of shared amenity space and facilities are of a satisfactory quality and will provide a comfortable living environment for future occupants. The requirements of this aspect of SPPR 7 are met in my view.

7.4.4. As previously detailed in Section 5.4.5 of this report, Specific Planning Policy Requirement 8 (SPPR 8) relaxes the following requirements for apartments in instances where Build-to-Rent apartments are proposed: - dwelling mix, storage, private amenity space and communal amenity space (on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development). Further to this, it outlines that the requirements that the majority of all apartments exceed the minimum floor area standards by a minimum of 10% and a maximum of 12 apartments per floor per core shall not apply (subject to overall design quality and compliance with building regulations) in the context of Build-to-Rent apartments.

7.4.5. The subject Build-to-Rent scheme provides 4 no. studio apartment; 42 no. 1-bed apartments; and 4 no. 2-bed apartments. As mentioned previously, the appellants/observer are vehemently opposed to Build-to-Rent units at this location. They contend that such a preponderance of studio/one-bedroom units will mean a transitory population and the proposed development does not satisfy the areas need for properties to facilitate down-sizing and family homes. There are no restrictions on dwelling mix in Build-to-Rent schemes, the proposed development is broadly in accordance with the development plan and complies with the requirements of the Apartment Guidelines, SPPR 8(i) is met. Consequently, I also note that the prevailing housing stock already in the area provides for mostly three and four bedroom housing units and so the introduction of an alternative form of development (studio, one and two bedroom units) provides more choice for would be residents.

7.4.6. Irrespective of flexibility allowed by SPPR 8(ii), the majority of the proposed apartments meet and in some cases, exceed the standards set out in relation to storage and private amenity space. As detailed in the housing quality assessment included in the Architectural Design Statement accompanying the application/application drawings, the studio units would be provided with 3sqm or 3.3sqm of storage, the 1-bed units by between 3sqm and 3.6sqm of storage, the 2-bed (3P) units by 5.65sqm of storage and the 2-bed (4P) units by 6sqm or 6.75sqm of storage, which complies with the storage requirements specified in Appendix 1 of the Apartment Guidelines, 2020. Turning to private amenity space. As detailed in the housing quality assessment included in the Architectural Design Statement accompanying the application/application drawings, the studio units would be served by balconies of 5.5sqm or 9sqm, the 1-bed units by balconies of between 5.1sqm and 9.2sqm, the 2-bed (3P) units by a sqm balcony and the 2-bed (4P) units by balconies of 7.7sqm or 9qm, all of which have a minimum depth of or exceeding 1.5 metres, thus complying with the requirements set out in relation to private amenity space. I am satisfied that adequate amounts of storage and private amenity space has been provided for all apartments and that residents will enjoy an enhanced overall standard of amenity in this regard.

7.4.7. Similarly, the proposed development complies with the quantitative communal amenity space requirements, providing 369.7sqm (117.7sqm in excess of the requirement) of communal amenity space, despite the flexibility afforded Build-to-Rent developments



by SPPR 8(ii). This communal amenity space is provided in the form of a 105sqm courtyard at ground floor level (located in the western part of the building), a 74.7sqm terrace at second floor level and a 190sqm terrace at third floor level (both in the eastern part of the building). The proposed communal amenity spaces are considered to be conveniently accessible to all residents of the development and of an appropriate size/design so as to be usable. The Apartment Guidelines require that designers '*ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year*'. The application is accompanied by a Sunlight Reception Analysis, prepared by DK Partnership, which includes an assessment of the proposed open space areas (communal and public) against the BRE guidelines. It concludes that the proposed communal amenity spaces will receive sunlight on 50% of the area well in excess of the minimum recommendations of the BRE Report – Site Layout and Planning for Daylight and Sunlight. In light of the foregoing, the proposed communal amenity spaces are also considered appropriate from a qualitative perspective. It is also worth noting that the positioning of the proposed communal amenity spaces to the rear of the site and fronting on to Harold's Cross Road also reduces potential noise impacts on residential properties featuring to the north and south of the proposed development.

7.4.8. Finally, SPPR 8(v) relaxes the requirement for a maximum of 12 apartments per floor per core, subject to overall design quality and compliance with building regulations. The proposed development is served by 2 no. lift/stair cores, one in the western part of the building and one in the eastern part of the building. These 2 no. lift/stair cores combined serve a maximum of 15 no. units per floor. The lift/stair cores are centrally located, the lobby area is large and well-lit with relatively short run corridors to access units, this is acceptable and in accordance with the principle of good design.

7.4.9. The proposed scheme meets the requirements of SPPRs 7 and 8 (SPPR 8(iii) will be considered in Section 7.6 of this report). The remaining SPPRs applying to all apartment developments (Build-to-Rent and build to sell alike) will be considered in turn below.

#### Minimum Floor Areas

7.4.10. As detailed in the housing quality assessment included in the Architectural Design Statement accompanying the application/application drawings, the studio units

would have a floor area of 37.4sqm and 40.5sqm, the 1-bed units a floor area of between 48sqm and 58.5sqm, the 2-bed (3P) units a floor area of 71.1sqm and the 2-bed (4P) units a floor area of between 75.6 sqm or 86sqm. Therefore, the proposed apartments exceed the minimum overall apartment floor areas specified in Appendix 1 of the Apartment Guidelines (2020) as well as complying with the associated minimums set in relation to aggregate floor areas for living/dining/kitchen rooms; widths for the main living/dining rooms; bedroom floor areas/widths; and aggregate bedroom floor areas. In addition, although not applicable in the context of Build-to-Rent schemes, the proposed development also complies with the requirement under Section 3.8 regarding a 10% exceedance of the minimum floor area standards. Further to this, having reviewed the proposed floor plans, I am satisfied that the apartments are suitably laid out internally to provide an adequate level of residential amenity to future residents.

#### Dual Aspect

7.4.11. With regards to aspect, the proposed development complies with Specific Planning Policy Requirement 4 with 40% of the proposed apartments being dual or triple aspect (with all single aspect apartments proposed being south, east or west facing). Both the appellant and observers contend that the no. of dual aspect apartments proposed falls short of the 50% requirement set out in the Apartment Guidelines. I note that given the subject site comprises a 'Central and/or Accessible Urban Location', as defined in the Apartment Guidelines, 33% is the dual aspect rate applicable in this instance.

#### Floor to Ceiling Height

7.4.12. With regards to floor to ceiling heights, the proposed development complies with Specific Planning Policy Requirement 5 with the floor ceiling height at ground floor level being a minimum of 2.7 metres.

#### Daylight/Sunlight

7.4.13. The Apartment Guidelines state that levels of natural light in apartments is an important planning consideration and regard should be had to the BRE standards. In this regard, the application is accompanied by a Daylight Reception Report, prepared by DK Partnership, which comprises an assessment of the proposed apartments

against the BRE design guide 'Site Layout and Planning for Daylight and Sunlight – a Guide to Good Practice'. More specifically, it assessed a sample of habitable rooms at across lower ground, ground and first floor level. Upon review, I am satisfied that the rooms selected for assessment are appropriately representative of the proposed development, with apartments at upper floor levels naturally having an improved daylight reception factor given their improved vertical daylight impact angle resulting from their elevated positioning. It concludes that the proposed development complies/in many instances exceeds the recommendations outlined in the BRE design guidelines. I am satisfied that daylight and sunlight considerations have informed the proposed layout and design in terms of separation distances, scale, window sizing and the aspect of units. Further to this, as previously discussed, 40% of the proposed apartments are dual or triple aspect and single aspect apartments proposed are south, east and west facing, maximising available light and ventilation to each apartment.

7.4.14. In conclusion, I am satisfied that the proposed development would provide quality apartments, meeting the relevant design standards and providing a suitable level of amenity and services for future residents.

#### **7.5. Residential Amenity of Adjoining Properties**

One of the primary issues raised by appellants and observers alike is that the proposed development will have a negative impact on the residential amenities of the nearby properties and the area.

##### Properties to the North

7.5.1. The site is bounded to the north by a c. 5 metres wide lane known as Laundry Lane. On the opposite side of this lane, is a two-storey apartment building comprising eight apartments with surface car parking and some limited landscaped areas to front and rear known as Kenilworth Lodge and a detached dwelling with a westerly aspect, facing onto a yard and outbuildings, known as No. 346A Harold's Cross Road.

7.5.2. No. 346A Harold's Cross Road is devoid of south-facing windows so there are no opportunities for overlooking in this regard. In the context of Kenilworth Lodge, four of the apartments have south-facing secondary windows facing onto Laundry Lane. Overlooking of these windows from the north facing windows associated with Apartments No. 8, 20 and 34 featuring in the proposed development is restricted due

to their positioning. These windows sit west of Kenilworth Lodge's south facing windows so no opportunity for direct overlooking is provided. Upon review of the drawings submitted with the application, it appears that there is opportunity for direct overlooking of these 4 neighbouring windows from the windows serving the double bedrooms associated with Apartments No. 7 and 17 featuring in the proposed development. However, due to the layout/width of the applicable bedrooms, I consider there to be an opportunity for the window serving this room to be repositioned further east to restrict direct overlooking of these neighbouring windows. Therefore, it is recommended that the Board attach a suitably worded condition requiring that the windows associated with Apartments No. 7 and 17's double bedroom be positioned further east/angled to restrict direct overlooking.

7.5.3. Due to the unusual site layout/configuration of buildings located to the north of the subject site, consideration of potential overlooking to south-facing windows associated with Clareville House is also required in the context of the subject proposal. Clareville House comprises a 2 storey apartment building located immediately north of Kenilworth Lodge. It features a number of first floor south-facing windows which are visible across the rear car parking area associated with Kenilworth Lodge. The section of the proposed development sitting immediately opposite of these windows is devoid of habitable room windows, windows featuring on the applicable section of the northern façade serving a hallway. Although not serving a habitable space, the north-facing windows sitting immediately opposite Clareville House feature vertical louvers which will restrict views from the applicable hallway. Potential overlooking from the windows associated with Apartments No. 8, 20 and 34 featuring in the proposed development is restricted due to their positioning (offset slightly east of the applicable section of façade) and the separation distance that exists between the proposed development and Clareville House (c. 20 metres).

7.5.4. In terms of potential overlooking of adjacent amenity spaces, I do not consider the proposed development will result in any significant or undue overlooking of the rear amenity space associated with Kenilworth Lodge or that of No. 346A Harold's Cross Road as the section of the northern façade sitting directly opposite these spaces is devoid of habitable room windows and only oblique views are provided from the windows and balconies serving Apartments No. 8, 20, 26 and 34 due to their

orientation, setback/positioning relative to applicable open space areas and the boundary treatment/existing structures featuring on these neighbouring sites.

- 7.5.5. With regards to the potential overbearing impact, it is not considered that the proposed development will have an unreasonable overbearing impact on the neighbouring properties to the north due to the existing site context/orientation of adjacent properties, the design/layout of the proposed development which adopts setbacks and steps down in height adjacent to the common boundary, the separation distance provided between the proposed development and the common boundary and the modulated presentation and varying materials/finishes utilised in the building design.
- 7.5.6. In terms of potential overshadowing, the application is accompanied by a Sunlight Reception Analysis, prepared by DK Partnership. This report found that there will be an increase in overshadowing of the two amenity spaces associated with Kenilworth Lodge and the amenity space associated with No. 346A Harold's Cross Road as a result of the proposed development. However, the applicable change factor ranges from 0.81 to 0.95 which is within BRE guidelines and the applicable amenity spaces will received 2 hours of sunlight or more on at least 50% of the area which complies with the BRE Guidelines.
- 7.5.7. With regards to potential impacts on daylight/sunlight received by the dwellings to the north, the application was accompanied by an Effects on Daylight Reception Analysis, prepared by DK Partnership. Having assessed changes in daylight (Vertical Sky Component) resulting from the proposed development, it concludes that the proposed development's effect on daylight reception to neighbouring windows to the north are all within the constraints and recommendations of the BRE Guidelines. I would concur with the findings of this analysis.

#### Properties to the South

- 7.5.8. The site's irregular southern boundary is flanked by the access road serving Kenilworth Manor, a development comprising of 3 storey terraced duplex dwellings to the south of the site and 2 no. two-storey semi-detached houses to the south-west. More specifically, Nos. 33-35, 36 and 37 Kenilworth Manor are immediately proximate to the proposed development. The appellant/observer are particularly concerned about potential overlooking/overbearing in the context of Kenilworth Manor created by the subject scheme.

7.5.9. With regards to potential overlooking, No. 33 Kenilworth Manor features four upper floor level north-facing windows which have an outlook across the subject site (these windows are secondary in nature) and No. 37 Kenilworth Manor features one habitable north-facing window at upper floor level. The applicable windows associated with No. 33 Kenilworth Manor sit immediately opposite the private balconies associated with proposed Apartments No. 21, 22, 35 and 36. These balconies feature a painted galvanised steel balustrade and railing along their southern edge which due to its open nature, provides an opportunity for direct overlooking to occur from the proposed development in my view. However, I am satisfied that potential overlooking of these adjacent windows could be addressed by way of frosted glazed screening to an appropriate height being introduced. Therefore, it is recommended that the Board include a condition requiring the applicant to introduce frosted glazed screens to a height of 1.8 metres on the south side of the balconies serving proposed Apartments No. 21, 22, 35 and 36, to protect the residential amenity of adjacent residents at No. 33 Kenilworth Manor.

7.5.10. In the context of No. 37 Kenilworth Manor, although the windows serving the double bedrooms associated with Apartments No. 27 and 40 featuring in the proposed development are setback C. 14.5 metres/offset slightly from the adjacent north-facing window, I consider there still to be opportunity for it to be overlooked from the proposed development. However, due to the layout/width of the applicable bedrooms, I consider there to be an opportunity for the window serving this room to be repositioned further east/angled to restrict direct overlooking of this neighbouring window. Therefore, it is recommended that the Board attach a suitably worded condition requiring that the windows associated with Apartments No. 27 and 40's double bedroom be positioned further east/angled to restrict direct overlooking.

7.5.11. In terms of potential overlooking of adjacent amenity spaces, the communal amenity space associated with Nos. 1-35 (inclusive) Kenilworth Manor sits immediately south, on the opposite side of the access road, of the private balconies associated with proposed Apartments No. 23, 24, 25, 37, 38, 39, 46, 47 and 48. These balconies feature a painted galvanised steel balustrade and railing along their southern edge which due to its open nature, provides an opportunity for overlooking of this open space area to occur from the proposed development in my view. However,

I am satisfied that potential overlooking of this adjacent open space area could be addressed by way of frosted glazed screening to an appropriate height being introduced. Therefore, it is recommended that the Board include a condition requiring the applicant to introduce frosted glazed screens to a height of 1.8 metres on the south side of the balconies serving proposed Apartments No. 23, 24, 25, 37, 38, 39, 46, 47 and 48, to protect the residential amenity of adjacent residents at Kenilworth Manor.

- 7.5.12. Upon review of the plans/having visited the site, I do not consider the proposed development will result in any significant or undue overlooking of the private amenity space serving No. 37 Kenilworth Manor due to the separation distance that exists between it and the proposed development, its limited depth and the c. 2.5 metre high wall that features along its northern boundary.
- 7.5.13. With regards to the potential overbearing impact, it is not considered that the proposed development will have an unreasonable overbearing impact on the neighbouring properties to the south due to the existing site context/orientation of adjacent properties, the design/layout of the proposed development which adopts setbacks and steps down in height along its southern elevation, the separation distance Kenilworth Manor provides between the proposed development and the adjacent properties to the south and the modulated presentation and varying materials/finishes utilised in the building design.
- 7.5.14. Given the orientation of adjacent dwellings to the south of the proposed development and the separation distances that exist between the proposed development and these dwellings, I do not consider the proposed development would result in any negative impacts on the residential amenity of adjacent properties by way of overshadowing.
- 7.5.15. With regards to potential impacts on daylight/sunlight received by the dwellings to the south, the application was accompanied by an Effects on Daylight Reception Analysis, prepared by DK Partnership. Having assessed changes in daylight (Vertical Sky Component) resulting from the proposed development, it concludes that the proposed development's effect on daylight reception to neighbouring windows associated with Nos. 33-35 and 37 Kenilworth Manor are all within the constraints and recommendations of the BRE Guidelines. I would concur with the findings of this analysis.

## Properties to the East and West

7.5.16. To the east of the subject site, on the opposite side of Harold's Cross Road, are a no. of single and double storey detached and semi-detached dwellings, Nos. 263, 265, 267 and 269 Harold's Cross Road. Given the height/scale of the proposed development, the orientation of these adjacent dwellings and the 26-28.5 metre separation distance that exist between the proposed development and the dwellings featuring on the opposite side of Harold's Cross Road, I do not consider the proposed development would result in any negative impacts on the residential amenity of adjacent properties by way of overlooking, overshadowing or overbearing.

7.5.17. The subject site's western boundary is flanked by Rosary Park Football Grounds, in particular the 2 storey gable wall of the associated club house.

## **7.6. Access, Traffic and Parking**

### Access/Traffic

7.6.1. The subject site was previously in use for motor sales and servicing, with access to the forecourt area from Harold's Cross Road and to rear vehicle storage and service areas via Laundry Lane. Harold's Cross Road is a busy arterial route and is provided with an in-bound bus lane and bus stops in the vicinity of the application site and cycle lanes are also delineated along this road. Vehicular access to the proposed development will be via Laundry Lane, with the layout of Laundry Lane being altered to provide a 4.8 metre wide lane and a 2 metre wide pedestrian footpath. More specifically, 3 no. car club parking spaces, 5 no. resident car parking spaces and a service area accommodating refuse, removal and utility vehicles will utilise Laundry Lane for access. The application was accompanied by a swept path analysis of the proposed service area (Drawing No. SB-2018-04-800), prepared by Shipsey Barry Architects.

7.6.2. The initial report from the Planning Authority's Road Planning Division raised concerns about/recommended that further information be sought in relation to the footpath proposals along Laundry Lane and pedestrian access requirements for users of the cycle store and bin store, among other things. In response to the further information request subsequently issued by the Planning Authority, the applicant proposed a 2 metre wide public footpath on the southern side of Laundry Lane that extends the



entire length of the site and relocated the proposed resident cycle store adjacent to a main pedestrian access point. Upon review, the Planning Authority/Road Planning Division deemed the proposed access arrangements for the proposed development to be acceptable.

7.6.3. Having regard to the reduced level of on-site parking provision proposed, use of this lane will be intermittent and the overall number and frequency of vehicle movements will be lower than the previous use on the site. The improved lane width and proposed footpath will address potential for obstruction of existing residents or other users of the lane. Having regard to the standard of the road network in the area, the availability of public transport services, the proposed improvements to Laundry Lane, the relatively modest level of the car parking provision proposed and the Planning Authority reports, it is my view that the proposed development will not endanger public safety by reason of traffic hazard or cause any greater impacts than previous use on the site in terms of traffic movements/congestion.

7.6.4. In terms of disturbance during construction to residents utilising Laundry Lane, as well as the Kenilworth Manor access road to the south, to access their property I note that such impacts are short-term, temporary in nature and that such impacts could be adequately mitigated through the implementation of a Construction and Demolition Management Plan.

#### Car Parking

7.6.5. The proposed development will be served by the following car parking provision: - 3 no. car club parking spaces and 5 no. resident car parking spaces. The appeal/observation received contend that car parking provision is insufficient having regard to the site's suburban non-central location/the inadequacy of public transport services in the area and will exacerbate illegal parking issues being experienced in the surrounding streets.

7.6.6. The Apartments Guidelines (2020) state that, in central and/or accessible urban locations, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. SPPR 8 (iii) of the Apartment Guidelines also notes that there shall be a default of minimal or significantly reduced

car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The subject site is deemed to be in a central and/or accessible urban location as it is proximate to Dublin Bus services running along Harold's Cross Road (which is a Quality Bus Corridor) and Kenilworth Park. Further to this, it is highly accessible by bicycle and foot with Harold's Cross Road comprising a primary cycling route and the subject site being within 1.3km of the canal which marks the boundary to the area considered to be Dublin City Centre. In addition to providing multiple options for sustainable travel (via public transport, walking and cycling), there is also a choice of retail and services provision within less than 1km of the site as previously discussed in Section 7.1.

7.6.7. The proposed development comprises a professionally managed Build-to-Rent development with 3 no. dedicated car club parking spaces. GoCar have provided a letter to accompany the application indicating their willingness to provide 2 no. of their vehicles at this location (a third car club was introduced post-lodgement in response to the further information request issued). It is considered that 1 no. car sharing vehicle could replace up to 15 no. private cars. A Travel Plan, prepared by TPS M Moran & Associates, was submitted with the application which notes that the management company in charge of the proposed development will encourage sustainable transport modes among residents by way of information packs that include details of nearby services/amenities, cycle and public transport routes, the Government Bike to Work Scheme etc. which will be updated regularly. The management company will also make residents aware that dedicated car parking spaces will not be made available to residents on a permanent basis but rather on a short term basis for use by residents for purposes of dropping off or collecting items or goods, as well as for short term use by visitors if booked ahead with the management company.

7.6.8. While the concerns of the appellant/observers are noted, it is my view that having regard to the nature of the development as a professionally managed Build-to-Rent scheme, the site's central and/or accessible urban location, its proximity a range of services and amenities, and the sites proximity to public transport I am satisfied that sufficient car parking has been provided in this instance and complies with the provisions of the development plan and the Apartments Guidelines and would not result in overspill onto the surrounding road network.

## Cycle Parking

7.6.9. With regards to bicycle parking provision, the development is served by 56 resident bicycle parking spaces, 28 visitor bicycle parking spaces and 2 cargo bicycle parking spaces. The quantum of bicycle parking provided is in excess of the Apartment Guidelines (2020) standards, which require 1 no. resident cycle space per bedroom and 1 no. visitor cycle space for every 2 no. units, and the standards set out in Table 16.2 of the Development Plan, which require a minimum of 1 no. cycle space per unit. 22 of the proposed visitor spaces/the 2 cargo bicycle parking spaces are located adjacent to the eastern development entry and 6 of the proposed visitor spaces are located adjacent to the western development entry which are considered to be appropriate locations in terms of accessibility and passive surveillance. The resident spaces proposed are located within a centrally located designated bicycle store accessible off Laundry Lane, which is considered to be appropriate locations in terms of shelter, accessibility and passive surveillance.

## **7.7. Open Space Provision**

7.7.1. Section 16.10.3 of the Development Plan requires that, in the context of new residential developments, 10% of the site area shall be reserved for public open space provision. Section 16.3.4 goes on to state that in the event that the site is considered by the planning authority to be too small or inappropriate (because of site shape or general layout) to fulfil useful purpose in this regard, then a financial contribution towards provision of a new park in the area, improvements to an existing park and/or enhancement of amenities shall be required (having regard to the City's Parks Strategy).

7.7.2. The proposed development provides 293sqm of public open space to the front of the site which equates to approximately 12% of the overall site area of 0.2319ha, thus complying with the quantitative development plan requirements. From a qualitative perspective, the area of public open space proposed is to the east of the site, thus having good solar access. It would provide direct connectivity to Harold's Cross Road and will be passively surveilled by Apartments 1, 2, 3, 4, 5, 6, 7, 14, 15, 16, 17, 29, 30, 31 and the communal terraces provided at second and third floor levels which all have an easterly outlook.

7.7.3. Having regard to the foregoing, public open space provision is considered appropriate in this instance. The appropriateness of communal amenity space provided as part of the proposed development has been considered previously in Section 7.4 of this report.

## 7.8. Flooding

7.8.1. In terms of assessing potential flood risk, I would note that the Planning System and Flood Risk Management, Guidelines for Planning Authorities (2009) which sets out a sequential test for assessing flood impact. The proposed residential development would constitute a highly vulnerable development in accordance with the Table 3.1 of these guidelines. Table 3.2 of the guidelines outlines that such highly vulnerable development is appropriate in areas falling within Flood Zone C and in Flood Zones A and B subject to the passing of a Justification Test.

7.8.2. The application is accompanied by a Flood Risk Assessment, prepared by Murphy Matson O'Sullivan Consulting Civil & Structural Engineers, which identifies the subject site as being located in a Flood Zone C area and concludes that the site is in an area not vulnerable to tidal, fluvial, pluvial or ground water flooding. With regards to the proposed lower ground floor level (the level of which is below ground at its southern, western and northern perimeter), residual flood risk from local overland flows from gully blockages/local drainage system flow exceedance and failure of on-site foul and surface drainage/attenuation systems were identified. To obviate such potential risk of flooding, the following design features have been adopted: - all drainage/service pipes, ducts and opes in the external walls below ground level will be flood proofed by means of non-return valves/priority water-proof seals; the lower ground floor external walls will be of reinforced concrete incorporating a waterproof membrane; the outfall level to the public sewer will be lower than the lower ground floor slab level; and the perimeter of the site will be bunded. In light of the adoption of these mitigation measures, they conclude that the risk of flooding at this site and the risk of flooding due to the development of this site in flood events is minimal in their view.

7.8.3. Having examined the OPW website ([www.floodinfo.ie](http://www.floodinfo.ie)), I find the assessment provided regarding potential tidal, fluvial, pluvial or ground water flooding in the Flood Risk Assessment, prepared by Murphy Matson O'Sullivan Consulting Civil & Structural Engineers, to be accurate. Having examined the OPW website ([www.floodinfo.ie](http://www.floodinfo.ie)), I

note that the subject site is I have reviewed the website [www.floodmaps.ie](http://www.floodmaps.ie) and there is no recorded history of flooding on the appeal site. The nearest recorded flood event to the appeal site was flooding at Dale Drive, Stillorgan, Co. Dublin, on the 24<sup>th</sup> October 2011. This flood event was localised.

7.8.4. Having examined the OPW website ([www.floodinfo.ie](http://www.floodinfo.ie)), I find the assessment provided regarding potential coastal, fluvial and coastal flooding in the Flood Risk Assessment, prepared by Murphy Matson O'Sullivan Consulting Civil & Structural Engineers, to be accurate. Further to this, I note there is no recorded history of flooding on the appeal site. The nearest recorded flood event to the appeal site was flooding at Harolds Cross (further north of the subject site), on 10<sup>th</sup> June 1963, which was localised.

7.8.5. Having considered the information available/provided by the applicant, subject to the adoption of the mitigation measures outlined in the Flood Risk Assessment, prepared by Murphy Matson O'Sullivan Consulting Civil & Structural Engineers, I am satisfied that, given its small scale and location within an established residential area in a Flood Zone C area, the proposed infill development would not give rise to an increased risk of flooding on the site or other properties in the vicinity.

## 7.9. Other Matters

7.9.1. *Development Contributions* – I refer to the Dublin City Development Contribution Scheme 2020-2023. The Part V units to be provided as part of the development fall under the exemptions listed in the development contribution scheme. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000. In relation to the Section 49 Supplementary Development Contribution Schemes (Luas Docklands Extension and Luas Cross City) it is noted that the subject site is located outside the applicable catchment areas.

7.9.2. *Part V* - The proposed development application included a letter from Dublin City Council advising that the applicant has engaged in Part V discussions with the Council. I note that an agreement in principle to comply with Part V requirements has been reached. A no. of specific details regarding this agreement are yet to be agreed with

the Planning Authority. I am satisfied however, that this matter can be appropriately dealt with by way of condition of planning permission.

7.9.3. *Site Investigations* - I note that site investigations were undertaken having regard to the previous uses on the site. The results of such investigations indicate that while no significant contamination was identified, small pockets of residual historic contamination are reported. These occur at a shallow level in made ground. It is indicated that the site is underlain by a thick layer of low permeability soils which inhibits migration of contaminants to the bedrock aquifer. Application documentation notes that the excavated materials will require removal and disposal of off-site at appropriately licensed facilities. In the event of a decision to grant permission in this case, it is recommended that conditions appropriately addressing this issue be attached. Surveys of the site also identified also asbestos materials within existing structures thereon. I note that the handling and removal of such materials is subject to separate regulatory requirements which are enforced by the Health and Safety Authority. These requirements include notification of works and submission of a Removal Method Statement to the HSA. I consider that these matters can be adequately dealt with through the mechanism of the Construction and Demolition Waste Management Plan.

#### 7.10. **Appropriate Assessment**

7.10.1. Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site. A Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

### 8.0 **Recommendation**

8.1. Following the assessments above, I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

Having regard to the residential zoning objective as set out in the Dublin City Development Plan 2016-2022, national and local policy objectives which support the redevelopment of brownfield/infill sites, the subject site's proximity to public transport, services/amenities and employment sources, the design, layout and scale of the proposed development and the existing and emerging pattern of development in the vicinity, it is considered that subject to compliance with conditions below, the proposed development would appropriately intensify residential use on this suitably located infill site, would constitute an acceptable height, quantum and density of development in this accessible urban location, would be acceptable in terms of design, height, layout and scale of development, would provide a suitable level of accommodation and amenity for future occupants, would not seriously injure the amenities of the area or properties in the vicinity, would be acceptable in terms of traffic safety/parking provision and would comply with the provisions of the Dublin City Development Plan 2016-2022, the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (Department of Housing, Planning and Local Government, 2020) and the Urban Development and Building Height - Guidelines for Planning Authorities (December 2018). The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>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 on 25<sup>th</sup> August 2021, 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. The total number of residential units permitted in this development is 50 no. units.</p> <p><b>Reason:</b> In the interest of clarity.</p>
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2.	<p>The proposed development shall be amended as follows:</p> <ul style="list-style-type: none"> <li>a) The windows associated with Apartments No. 7 and 17's double bedroom to be positioned further east to restrict overlooking.</li> <li>b) The windows associated with Apartments No. 27 and 40's double bedroom to be positioned further east and/or angled to restrict overlooking.</li> <li>c) Frosted glazed screens to a height of 1.8 metres to be introduced on the south side of the balconies serving Apartments No. 23, 24, 25, 37, 38, 39, 46, 47 and 48.</li> </ul> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interests of residential amenity.</p>
3.	<p>The development hereby permitted shall be for build to rent units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area and in the interest of clarity</p>
4.	<p>Prior to the commencement of development, the developer shall submit details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>



5.	<p>Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit ownership details and management structures proposed for the continued operation of the entire development as a build-to-rent scheme. Any proposed amendment or deviation from the build-to-rent model, as authorised in this permission shall be subject to a separate planning application.</p> <p><b>Reason:</b> In the interests of orderly development and clarity.</p>
6.	<p>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 occupation of the development.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity</p>
7.	<p>The development shall be finished in accordance with the material, colour and texture details and landscaped in accordance with a comprehensive scheme of landscaping submitted with the application/further information request response (whichever is most recent), unless otherwise agreed in writing with the planning authority.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
8.	<p>a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally-constituted management company.</p> <p>b) A map delineating those areas to be taken in charge by the Local Authority and details of the legally-constituted management company contract, and drawings/particulars describing the parts of the development for which the legally-constituted management company would have responsibility, 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. The management scheme shall</p>

	<p>provide adequate measures for the future maintenance of public open spaces, roads and communal areas.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
9.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
10.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
11.	<p>Proposals for an apartment naming/numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p><b>Reason:</b> In the interest of urban legibility.</p>
12.	<p>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</p>

	<p>this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
13.	<p>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.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
14.	<p>a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [and for the ongoing operation of these facilities] for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.</p> <p><b>Reason:</b> In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
15.	<p>a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.</p> <p>b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the</p>

	<p>planning authority before any of the residential units are made available for occupation.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
16.	<p>a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Residential car parking spaces shall not be utilised for any other purpose unless the subject of a separate grant of planning permission.</p> <p>b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how car, cycle, motorcycle and car-share club parking, as well as turning areas, shall be continually managed.</p> <p><b>Reason:</b> To ensure that adequate parking facilities and turning areas are permanently available to serve the proposed development.</p>
17.	<p>All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of sustainable transportation.</p>
18.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>

19.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity and the visual amenities of the area, particularly the Phoenix Park Conservation area.</p>
20.	<p>Tactile paving shall be provided in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council on Harold's Cross Road, either side of Laundry Lane to indicate the location of the uncontrolled pedestrian crossing. Works shall be carried out prior to occupation and completion of the development and details shall be agreed in writing with Dublin City Council.</p> <p><b>Reason:</b> In the interest of pedestrian safety.</p>
21.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> 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.</p>

22.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion of the development.</p>
23.	<p>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.</p> <p><b>Reason:</b> 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.</p>

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Margaret Commane  
 Planning Inspector  
 12<sup>th</sup> May 2022