



An
Bord
Pleanála

Inspector's Report

ABP-311971-21

Development	Alterations to roof, change of use of offices to 2 apartments and all associated site works.
Location	228 Harold's Cross Road, Dublin 6, D6W C921
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3464/21
Applicant(s)	Goulding Integrity Investment Ltd.
Type of Application	Planning Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	First Party
Appellant(s)	Goulding Integrity Investment Ltd.
Observer(s)	BKC Solicitors on behalf of Brian Burns
Date of Site Inspection	28 th April 2022.
Inspector	Jimmy Green

1.0 Site Location and Description

- 1.1. The site of the proposed development (the “Subject Site”) is located at 228 Harold’s Cross Road, Dublin 6, D6WC921, with a stated area of 220m². The site is located on western side of Harold’s Cross Road and is approximately 150m south of Harold’s Cross Park. The building on site forms part of a terrace of buildings and would originally been in use as a single dwelling unit, it is located mid-terrace and presents a two-storey front elevation to Harold’s Cross Road. The front wall of what would have been the front garden area of the building has been removed and the area paved to provide for parking accommodation for 2 no. vehicles. The buildings immediately neighbouring present similar elevations to the road. Harold’s Cross Road presents the only means of accessing the Subject Site as there is no independent or shared access into the rear.
- 1.2. The existing building on site would originally have had a double A pitched-roof structure, however, the rearmost pitched roof has been replaced with a flat-roofed second floor extension which has resulted in the building having a three-storey elevation to the rear. Beyond the rear building line of the original structure the building has been extended at ground floor level into the rear of the Subject Site, this ground floor extension begins as a flat-roofed structure but connects to an annex with a pitched roof and with a ridge height of c.5.9m and which accommodated office floorspace at first floor level. A 3-bed apartment is in place on the first and second floor of the main building on site.
- 1.3. The site is well placed in terms of all amenities and services and at time of site inspection the entirety of the building on site (at offices at ground floor as well as first and second floor residential) was subject to refurbishment works as shown on site visit photographs.

2.0 Proposed Development

- 2.1. The proposed development constitutes the provision of:
 - Alterations to the roof of existing annex (change from pitched to flat roof and increase in height to provide for habitable first floor space).

- Change of use of the ground floor from office to residential (2 no., 1-bed apartments).
- Conversion of existing vehicular access to pedestrian access, and all ancillary site works.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority issued a notification of decision to grant permission for the proposed development on the 1st of November 2021 subject to 11 no. conditions, the key conditions imposed relevant to the current appeal can be summarised as follows:

- A development contribution is required.
- Condition No.3 specified that the proposal must be amended so that in the first instance the roof of the annex building shall be retained i.e., no changes to the roof of the annex are permitted and secondly, that the development shall be reduced to provide for only one additional residential unit only.
- Condition No. 4 related to the requirements of the transportation division including the provision of bicycle parking, drop curbs and front boundary gateway requirements.
- Condition No. 6 requires a plan to be submitted setting out cycle parking and refuse storage for all units including the existing 3-bedroom unit at first and second level.

The primary concern raised throughout the first party appeal relates to the inclusion of condition 3 in the decision.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports:

The Planning Report prepared by the Planning Authority is dated the 1st of November 2021 and recommends that permission be granted for the Proposed

Development, albeit that the proposed alterations to the roof profile of the rear annex are to be omitted. Therefore, in granting the proposal the Planning Authority have reduced the nature of the development to the provision of an additional single dwelling unit and associated works. This recommendation was made without recourse to a further information request. No significant issues of concern were raised in terms of the principle of the provision of two additional dwellings units at this location, however, in relation to the conditioned amendments to the proposed development the planning report states that the Planning Authority is of the view that “...*the proposed development as presented is excessive and would read as overbearing from the neighbouring properties at 226 and 230 Harold’s Cross road. It is noted that the applicant has submitted shadowing details that shows the impact on the amenity space of number 226 Harold’s Cross Road. While this additional information is useful, it is not sufficient to overcome the concerns regarding the visual impact on the neighboring properties at 226 and 230 Harold’s Cross Road*”.

3.2.2. Other Technical Reports

- Engineering Department Drainage – no objection subject to conditions.
- Transport Planning Division – no objection subject to conditions.

3.3. Prescribed Bodies

No submissions made from prescribed bodies.

3.4. Third Party Observations

There was one third party submission lodged to the planning authority within the prescribed period. The points raised in that observation are set out below:

- Loss of light and overshadowing of the neighbouring property.
- Overlooking and loss of privacy.
- Visual amenity and loss of view from private home.
- Inadequacy of parking, traffic generation and traffic safety.
- Noise disturbance resulting from use.
- Potential health safety and fire risk due to a lack of a rear entrance/access.

4.0 Planning History

4.1.1. Previous applications on the Subject Site include the following:

PI. Ref. 2546/21: Previous application for the same applicant, on the subject site for a similar development i.e., change of use of existing ground floor and provision of two no. residential units. At further information stage the Planning Authority sought amendments to the proposed development reducing the number of units to one and seeking the roof plane of the rear annex to remain unaltered. Ultimately, the applicant's response drawings (which are those submitted in the current application) did not satisfy the Planning Authority's requirements and in granting permission a condition was imposed limiting the proposed development to be for one additional unit only and stating that the roof of the annex building must not be altered (i.e., the same condition as that currently under appeal in the current application was imposed). This decision was not appealed.

PI. Ref. 2478/21: Invalid application.

PI. Ref. 6395/06, ABP – PL29S.222135: Permission refused by Planning Authority and An Bord Pleanála to convert existing 3-bedroom duplex apartment (on first and second floor of the Subject Site), into 1 no. 2-bedroom apartment at first floor and 1 no. 1-bedroom apartment at second floor. On appeal the refusal reason attached by An Bord Pleanála was as follows:

“The proposed development, by reason of its height, scale, mass, bulk and the extent of alteration to an existing double A roof at two storey height, would result in overlooking, overshadowing, an overbearing impact on adjoining property and overdevelopment of the site generally. As such it would seriously injure the amenities of property in the vicinity, set an undesirable precedent for similar development the area and be contrary to the proper planning and sustainable development of the area.”

PI. Ref. 5142/06: Permission refused by the Planning Authority to convert existing 3-bedroom duplex apartment on first and second floor (of Subject Site) into 1 no. 3-bed apartment (1st floor), and 1 no. 1-bed apartment (2nd Floor). Permission was refused by the Planning Authority due to the proposed development having units of substandard floor area, inadequate and insufficient private open space, inadequate

car/cycle parking, inadequate refuse storage and would lead to the creation of a substandard residential environment.

PI. Ref. 2954/04: Permission granted by Planning Authority for alterations to PI. Ref. 3980/03 to include conversion of ground floor office area into two separate office units with shared meeting room, canteen and w.c. on the Subject Site.

PI. Ref. 1334/04: Invalid application.

PI. Ref. 3980/03: Planning permission granted for the conversion of ground floor residential area to offices, 1st and 2nd floor areas to 1 no. 3 bedroom apartment, provision of garden access from the apartment, construction of single storey rear extension with 5 no. new veluxes and raised pitched roof, changing front wall finish to a smooth render, upgrading existing aluminium windows to double glazed UPVC windows together with new front door on the Subject Site.

PI. Ref. 0531/03: Permission refused for the provision of a free-standing illuminated sign *“in the forecourt of 228 Harold’s Cross Rd.”*

PI. Ref. 0042/99: Application for Permission for a front bedroom extension in existing attic plus 2 no. car parking spaces to front and retention of existing signage on the Subject Site. This application was appealed to An Bord Pleanála who ultimately issued a split decision (a) granting permission for the provision of the two car parking spaces to the front of the premises and (b) refusing permission for the extension and signage.

4.1.2. Relevant applications in the immediate vicinity of the subject site include the following:

PI. Ref. 2409/19, (ABP-306095-19): Permission granted by the Planning Authority and An Bord Pleanála to New Grove Property Ltd. for the demolition of 4 no. existing light industrial/commercial units and a 2-storey dwelling unit, provision of a 3-no. storey, 7 no. bay hipped roof terrace block, providing 4 no. three-bedroom townhouses, 3 no. two-bedroom apartments and 5 no. one-bedroom apartments and communal amenity space located at ground floor level; and all associated works. This site is located to the rear of the Subject Site and these works were underway at the time of site inspection.

Pl. Ref. 3054/15: Permission granted in September 2015 for a change of use from office back to domestic use of a two-storey mid terrace property at 230 Harold's Cross – this site immediately neighbours the Subject Site to the south.

5.0 Policy Context

5.1. Development Plan

5.1.1. The provisions of the Dublin City Development Plan 2016-2022 (CDP) zones the Subject Site as “*District Centres – Zone Z4*”. The landuse zoning objective at this location is therefore “*To provide for and improve mixed-services facilities*”. Other relevant provisions of the CDP include:

- QH8 – provides for higher density development which respects the character of surrounding development on vacant or under-utilised sites.
- QH18 – to promote the provision of high-quality apartments by achieving suitable levels of amenity within individual apartments and each apartment development.

Chapter 16 – Development standards for residential development are set out in this chapter and standards for residential quality in Section 16.10.2 with guidance criteria for infill developments in Sections 16.10.8 and 16.10.10 of the CDP. Sections 16.10.12 and 16.10.13 of the CDP provides for extensions/alterations to dwellings and sub-division of dwellings respectively.

5.2. Draft Development Plan

5.2.1. The Draft Dublin City Plan 2022-2028 has been placed on public display and it is intended that the members will consider the Chief Executives Report on submissions to the Draft at special meeting in July. The provisions of the Draft plan relevant to the subject site are broadly consistent with the current City Plan. In the Draft Plan the site is zoned Z4 – Key Urban Villages/Urban Villages, the development objective of which is “*To provide for and improve mixed-services facilities*”. Policy QHSN34 promotes the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity while QHSN35 requires new houses and apartments to provide for satisfactory amenities in accordance with

standards. Section 15.9 sets out the apartment standards with Section 15.13.3 setting out infill requirements.

5.3. **Statutory Guidance**

- 5.3.1. Policies and standards for apartment development issued under Section 28 of the Planning and Development Act, 2000 as amended are in, “Sustainable Urban Housing: Design Standards for New Apartments” (December 2020) (Apartment Guidelines, 2020).

5.4. **Appropriate Assessment**

- 5.4.1. Having regard to the planning history for the site, the zoning objective, the location of the site, which is on serviced land, the existing development on the site and in the vicinity and, the nature and scale of the proposed development, no appropriate assessment issues arise, the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

5.5. **EIA Screening**

- 5.5.1. Schedule 5 of the Planning and Development Regulations 2001 (as amended) (“the Regulations”) sets out the various classes and thresholds of development which require mandatory Environmental Impact Assessment (EIA). The provision of dwelling units is of a class specified in Schedule 5 Part 2 of the Regulations (Class 10(b) “Infrastructure projects” refers), which establishes the relevant EIA threshold in relation to this class of development as “*Construction of more than 500 dwelling units*”.
- 5.5.2. Having regard to the nature and scale of the development, which includes the change of use from office to 2 no. dwelling units within a serviced urban area removed from any sensitive locations or features, I conclude that there is no likelihood of significant effects on the environment arising from the proposed development. Accordingly, I conclude that the necessity for submission of an Environmental Impact Assessment Report and carrying out of EIA can be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of the first party appeal prepared by Hughes Planning & Development Consultants on behalf of the Applicant relate solely to the inclusion of condition no. 3 in the Planning Authority's decision to grant permission. The Grounds of Appeal state that the inclusion of condition no. 3 is unwarranted because the proposed development is:

- Consistent with the zoning provisions of the subject site.
- Satisfies the standards and principles for residential development set out in the CDP.
- The alterations to the existing annex roof form are modest in form and scale and protect established residential amenities and will not in the appellants opinion give rise to any undue impacts on neighbouring properties.
- The grounds of appeal include a copy of an overshadowing report prepared by H3D, as well as providing examples of other permitted projects in the wider area which is it argued offers precedent and support for the development as proposed.

6.1.2. The first party appeal asks the Board to exercise its discretion under Section 139(1) of the Planning and Development Act, 2000 (as amended) ("the Act"), to restrict itself to the consideration of condition no. 3 only.

6.2. Planning Authority Response

6.2.1. There has been no further submission from the Planning Authority in relation to the appeal.

6.3. Observations

6.3.1. One observation has been received from bkc solicitors on behalf of Brian Burns, of 230 Harold's Cross (the property immediately neighbouring the proposed

development to the south). The points raised in the observation can be summarised as follows:

- Loss of light, overshadowing, overlooking, loss of privacy, as well as the loss of private view from the observer's property (No. 230 Harold's Cross).
- Fire risk associated with there being no rear access into the proposed development and no fire escapes.
- The proposed development represents an inappropriate form of development at this location and multi-unit development of the building will give rise to noise and disturbance to the observer's residential property.
- Traffic safety concerns arising from a lack of/inadequacy of parking, traffic generation and resultant impacts on highway safety.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and having inspected the site, and considering the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Section 139 of the Act
- Principle of the Proposed Development.
- Apartment Guidelines.
- Private Open Space – New Issue
- Potential Impact on Neighbouring properties.
- Condition No. 3 -Visual Impact
- Other Issues
 - Traffic and Transport.
 - Fire

7.2. Section 139 of the Act.

7.2.1. I have noted the content of the first party appeal and the nature of condition no. 3 that has been included in the Planning Authority's decision. The condition that has been imposed speaks to the very nature of the overall development in reducing the consent from the provision of an additional two dwelling units on site to the provision of only one additional unit. Furthermore, the reason the condition was imposed is stated as being in the interest of visual amenity. I note that in their assessment the Planning Authority considered that the proposed development necessitated alteration by condition in order to protect the residential amenity of neighbouring properties. In my opinion the condition as imposed is fundamental to the overall decision that has issued and cannot be considered in isolation to the overall development. For these reasons it is my intention to assess this appeal "de novo" and I therefore recommend that the Board do not exercise its discretion under the provisions of Section 139(1) of the Act in this case. I will, therefore, continue to assess the appeal having regard to the overall planning merits of the case.

7.3. Principle of the Proposed Development.

7.3.1. The proposed development constitutes the provision of 2 no. dwelling units/apartments within floorspace that was previously consented as office use (and more recently consented for a change of use to residential). The works required to provide the two additional apartments do not increase the building footprint on site but do require alterations to the roof of a rear annex from an apex roof to a flat roof to provide habitable space at first floor level. Neither the plot ratio (0.825) nor site coverage (0.44) calculations will be altered. The site is zoned "Z4 – District Centre", and residential development is a use that is appropriate in this zone.

7.3.2. Policy QH8 of the CDP seeks to promote the sustainable development of vacant or underutilised infill sites and to "... *favourably consider higher density proposals which respect the design of the surrounding development and the character of the area*". The impact on the character of the area is discussed further below, however, in terms of principle the development as the proposed complies with the provisions of QH8 insofar as the proposed development provides for an additional density of development at a serviced and central location.

7.3.3. Having regard to the zoning objective of the site (and the fact that the Planning Authority have previously consented the residential use of this floorspace), and as

the proposed development will provide for an increased residential density at this highly accessible and serviced location, I have no issue with the principle of the proposed development.

7.4. Apartment Guidelines

7.4.1. The proposed development constitutes the provision of two additional apartments on the subject site through the conversion of existing office floorspace. There is also an existing 3-bedroomed apartment on site (located at the first and second floor levels). At time of site inspection, as can be seen on the photographic record, the entirety of the building on site (all three floors) was undergoing extensive refurbishment works, albeit no alterations were being carried out to the external envelope of the rear annex. In relation to the requirements of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020) (“the Guidelines”) the following items are of note.

- Both proposed residential units satisfy the required minimum floor area of 45m² for a one-bedroom apartment (unit 1 – 45m², unit 2 – 64m²).
- The requirements for the aggregate minimum floor area for living areas is 23m², Unit 1 has a stated¹ living area of 21.1m² while Unit 2’s living area is 26.5m². The shortfall in unit 1 is noted, however, the Guidelines state that a variation of up to 5% can be applied to room areas and widths subject to overall compliance with required overall apartment floor areas.
- The bedroom areas of the two units at 12.4 and 12.7m² respectively both exceed the 11.4m² minimum requirement of the Guidelines. Also, the minimum storage space of 3m² per one-bedroomed unit is achieved.

7.4.2. In relation to communal open space, none is provided formally within the current proposal. Although, a defensible communal area is being provided at the front of the site for access, bike parking and other servicing arrangements. The Guidelines allow for communal amenity space requirements to be relaxed in part or whole, on urban infill schemes on sites of up to 0.25ha on a case-by-case basis, subject to overall design quality. I consider that the location and nature of the proposed development

¹ Drawing no. 2102-P-03, “Proposed Plans, Elevations and Sections” Hausman Design, refers.

lends itself to the relaxation of the communal open space requirements in relation to the proposed apartment units in this instance.

- 7.4.3. The minimum private open space requirement for a one-bedroomed unit is specified as 5m² in the Guidelines. Unit 1 is provided with a 16m² courtyard open space area accessed directly from its sitting room. This courtyard area is framed on two sides by Unit no. 2, which relies on this courtyard to provide natural light into its access corridor and “den” area, while the neighbouring parity wall provides the remaining boundary. The windows providing natural light to unit 2 will be of obscured glazing thereby protecting the amenities of both units and there are no views available from the open space into any adjoining or neighbouring properties. Therefore, I consider this open space area to be of sufficient quality and quantity to service unit no. 1.
- 7.4.4. The private open space for unit no. 2 is to the rear of the site and constitutes another private courtyard area of 21m² which is accessed directly from the bedroom of that unit, and which is bounded on all three other sides by parity walls with neighbouring properties. I note that this garden/open space area is accessed solely from the bedroom of the unit and while the guidelines state that balconies should adjoin and have a functional relationship with the main living areas of apartments there is no such specific requirement in relation to gardens at ground level. Accordingly, this private open space area, in my opinion, is adequate to cater for the requirements of Unit no. 2 and will not give rise to views into or adverse impacts on adjoining properties.
- 7.4.5. Generally, I consider the private open space provisions for the proposed apartments to be acceptable when considered in isolation, however, a potential issue does arise when the impact of the proposed development is considered in the context of the provision of private open space for the extant 3-bedroom unit on site, this matter is discussed further below.

7.5. Private Open Space – New Issue

- 7.5.1. In my opinion a potential issue arises in relation to the impact that the proposed development has on the private open space provision for the existing 3-bedroom apartment on site. I note that this upper floor unit does not form part of the current application/appeal, however, under Pl. Ref. 3980/03 the 3-bedroom unit at first and second floor level was granted permission with direct access to the rear garden area

via external stairs to cater for its open space requirements, from site inspection this connection is not (and does not appear to have ever been) in place. The proposed development neither provides nor facilitates access to the rear garden areas from the upper floor residential unit. I note that this matter has not been raised by any party to the current appeal and that therefore this could be considered as a new issue on this appeal. I therefore would draw the Board's attention to this fact and as such the Board may wish to seek the views of the parties in this regard.

7.5.2. From review of the planning history in relation to this matter the following is of note:

- The Planning Authority did not raise an issue in relation to the provision of private open space for the existing 3-bed unit in its consideration of the current proposal beyond noting that as established under the previous application (Pl. Ref. 2546/21) the Guideline requirements have been satisfied in relation to the proposed units.
- The Planning report on Pl. Ref. 2546/21 noted that “...*there is an existing 3 bed unit within the upper floors of the building that appears to have no amenity space. It is noted that the current development will not offer any improvements to this situation for the occupants of this apartment.*” The Planning Authority did not seek any additional clarity on this matter.
- The upper floor 3-bed apartment does not form part of the current application.
- The consented application drawings on Pl. Ref. 3980/03 show that direct access to the rear garden area was to be provided from the 3-bed unit via an external screened staircase from the first-floor level of the consented apartment.
- Pl. Ref. 2954/04 under which consent was granted to amend the previous 2003 application to provide two offices and amend the rear annex proportions to that currently in place also shows the direct access from the first floor 3-bed apartment to the rear garden via external stairs. Similarly, the “existing” drawings on Pl. Ref. 6395/06, (ABP – PL29S.222135) and Pl. Ref. 5142/06 (albeit both were previously refused) show this direct first floor access to the rear open space (as permitted under Pl. Ref. 3980/03). The inspectors site photographs on 222135 clarify that the external stairs were not in place.

- From site inspection and on examination of the first-floor apartment (which is currently being fully refurbished in tandem with the rest of the building) the direct external stairway connection between the first-floor apartment and rear open space is not present nor is there any evidence of it ever having been in place.
- The Apartment Guidelines have a minimum requirement of 9m² private open space for a three bedroomed unit.
- The unchallenged grant of permission that has already issued from the Planning Authority in relation to PI. Ref. 2546/21 has effectively allocated the rear garden areas to the new residential unit permitted and does not incorporate any provisions which would facilitate the previously granted access (PI. Ref. 3980/03) from the upper floor apartment to the garden area.

7.5.3. The Apartment Guidelines state that *“For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, private amenity space requirements may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality”* (Para. 3.39 of the Guidelines refer).

7.5.4. In relation to this issue, I note that due to the focused nature of the application and the characteristics of the proposed development, this matter cannot be addressed by inclusion of a condition to ensure provision of access to private or semi-private/communal open space for the upper floor unit without requiring significant design alterations and/or adversely impacting on the residential amenity of the future residents of the proposed ground floor units or adjoining properties.

7.5.5. Notwithstanding the fact that the proposed development does not cater for the provision of private open space to the upper floor apartment, having regard to the nature of the proposed development which represents refurbishment of an existing vacant building in a serviced urban setting within a Z4 (District Centre) zoned area, on a site of 220m², at a highly accessible location in proximity to all amenities, I consider that the provisions of para. 3.39 of the Apartment Guidelines which allow for relaxation of open space standards in appropriate conditions can be applied. Furthermore, I note that the recent planning history has formalised the first-floor residential unit not having direct access to private open space (contrary to the provisions of the 2003 consent for the upper floor unit), and that the Planning

Authority has not raised this as a matter of concern nor does there appear to have been any enforcement action issued in this regard.

7.6. Potential Impact on Neighbouring Properties:

- 7.6.1. The existing rear annex has an apex roof with a stated maximum height of 5927mm at the ridge level. The current proposal seeks to provide a flat roof and raise the overall height of the rear annex to 6085mm at parapet level (an overall increase of 158mm between the apex of the annex and the courtyard level). While I note that the difference between the parapet level of the proposed flat roof and the ridge height of the existing apex roof is negligible the proposed roof will lead to an increase in height of approximately 1.96m over the existing annex eaves which are in closest proximity to parity boundaries.
- 7.6.2. The appeal documentation includes an overshadowing report. The proposed development will result in an increase in shadow generated, particularly on adjacent property to the north (i.e., no. 226 Harold's Cross). The overshadowing study submitted demonstrates that in excess of half of the garden area of no. 226 will continue to receive more than 2hrs of sun on the 21st of March with the proposed development modelled and accordingly the garden area will remain adequately sunlit throughout the year². In relation to sunlight penetration in the outdoor amenity areas of no. 230 Harold's Cross Road (the observer's property), this is located to the south of the proposed development and significant overshadowing does not arise.
- 7.6.3. When assessing light access the "Vertical Sky Component" (VSC) is the measurement used. This is expressed as a percentage and generally for residential properties windows with a value of 27% or higher is acceptable. Where a window has a VSC of less than 27% and if a proposed development results in a further reduction less than 0.8 times its former value this can be considered a noticeable change. The study submitted considers the 17 windows most proximate to the proposed changes to the annex roof and of these all but one exceeds the 27% guideline amount with the proposed development modelled. One window in a neighbouring property falls below this level however the reduced value is 0.93 times

² BRE "Site Layout Planning for Daylight and Sunlight" (2nd Edition) Section 3 refers

the original and accordingly I consider that this is not significant and will not adversely affect residential amenity of that property.

7.6.4. In relation to overlooking, the proposed development does not propose any additional windows which would overlook the amenity areas of either no. 226 or 230 Harold's Cross road. One window is proposed at first floor level addressing the rear courtyard amenity space of Unit no. 2. This window will offer a view to the car parking and communal open space area of the neighbouring development to the rear which has been granted by the Board (ABP-306095-19) and is currently under construction. I do not consider that this window gives rise to overlooking concerns in the context of the built environment or neighbouring amenities and accordingly in my opinion the proposed development does not give rise to overlooking issues on neighbouring properties.

7.6.5. In conclusion, on the basis of the information submitted I am of the opinion that the proposed development will not give rise to adverse impacts from overshadowing, overlooking or access to daylight.

7.7. Condition no. 3 – Visual Impact

7.7.1. The first party appeal requests that condition no. 3 of the issued decision from the Planning Authority should be omitted. Having reviewed the planning drawings, and nature of the built environment in the immediate proximity to the proposed development and noting the proposed increase in roof level I do not consider that the development proposed will have an adverse impact on the visual amenities of the area or present an over-bearing aspect. There is a wide range in variety and format of building types in the built environment in the immediate vicinity and I consider that the development as proposed will not be read as an incongruous or inappropriate feature in that context. Furthermore, as set out above the proposed development does not give rise to quantifiable adverse impacts on the residential amenities of neighbouring properties in terms of overshadowing, daylight or overlooking.

7.7.2. I therefore consider that the proposed development including the alterations to the roof of the rear annex building represents an appropriate design intervention at this location and that the design of the development as proposed does not have an adverse impact on the visual amenities of neighbouring properties or the area.

7.8. Other Issues

7.8.1. In relation to traffic and transport considerations no car parking is proposed as part of the proposed development. The site is located within a district centre zoned area at a location that is well serviced in terms of public transport and where services and amenities are within walking distance. The Transport Planning Division of the Planning Authority did not raise any objection to the proposed development subject to conditions. Accordingly, I consider that the lack of car parking within the Proposed Development is appropriate (given the site location and availability of public transport) and in accordance with the requirements of the proper planning and sustainable development of the area. Should the Board be minded to grant permission for the development as proposed I would recommend that conditions be imposed to ensure that adequate detail is provided in relation to the provision of adequate bicycle parking/storage provisions on site.

7.9. The observer has raised concerns in relation to the potential fire safety of the proposed development and the fact that access will only be available from Harold's Cross Road. In this regard I note that both proposed residential units have independent access to enclosed rear yard areas as well as their access onto Harold's Cross Road. I also note that the issue of compliance with Building Regulations will be evaluated under a separate legal code and is not of direct relevance to the assessment of this appeal.

8.0 Recommendation

8.1. Having regard to the foregoing, I recommend that permission be granted for the proposed development based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

9.1. Having regard to:

- The provisions of the Dublin City Development Plan 2016-2022, according to which the site is within an area zoned Z4, and Policy Objective QH 8.

- The provisions of the Sustainable Urban Housing – Design Standards for New Apartments – Guidelines for Planning Authorities (Department of Housing, Local Government and Heritage, December 2020).
- The existing development in place and the planning history of the site.
- The ability of the site to accommodate additional residential development in a compact and sustainable urban form within this central urban and well serviced location as advocated in current national and strategic guidance

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area, character of the built environment, residential amenities of properties in the vicinity or the future occupants of the proposed development. Furthermore, it is considered that the proposed development would be acceptable in the context of the character and nature of the surrounding elements of the built environment and in terms of pedestrian and traffic safety and would 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, 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.</p> <p>Reason: In the interests of Clarity.</p>
2.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the</p>

	<p>planning authority. Noise levels during construction shall not exceed 65 dB (A), Leq. 30 minutes and the peak noise shall not exceed 75dB (A), when measured at any point off site.</p> <p>Reason: In order to safeguard the [residential] amenities of property in the vicinity.</p>
3.	<p>The external finishes of the permitted alterations to the roof plane of the rear annex structure shall be consistent with those of the existing building on site in respect of colour and texture.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Prior to the commencement of the development the application shall submit for the written agreement of the Planning Authority, a plan showing cycle parking and refuse storage for all three units on the site, including the 3-bedroom unit at first and second level.</p> <p>Reason: In the interest of clarity and to ensure a satisfactory standard of development.</p>
5.	<p>Details of the proposed arrangements for hard and soft landscaping of the private open space areas to the rear as well as the amenity/service/front access area on the site frontage shall be submitted to, and agreed in writing with, the Planning Authority, prior to the commencement of development. Details of hard and soft landscaping to the front of the site shall include provision of covered bin storage areas, bike parking and amenity provisions for the residents. The hard and soft landscaping provisions must be provided prior to first occupation of any of the residential units on site and thereafter will be maintained unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenities</p>
6.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk, shall comply with the requirements of the planning authority for such works and services.</p>

	Reason: In the interest of public health.
7.	<p>(a) All foul sewage and soiled water shall be discharged to the public foul sewer.</p> <p>(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system [or soakpits].</p> <p>Reason: In the interest of public health.</p>
8.	<p>Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
9.	<p>The existing dropped kerb and dished footpath to the front of no. 228 Harold's Cross shall be removed and replaced with a standard footpath and kerb treatment for a pedestrian footpath, which shall comply with the requirements of the of the planning authority for such works.</p> <p>Reason: In the interests of traffic and pedestrian safety and to ensure a proper standard of development.</p>
10.	<p>Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development shall take place at any roof level within the site, including, 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>Reason: To protect the visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.</p>
11.	<p>Proposals for a name and numbering scheme and associated signage for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of urban legibility.</p>

12.	<p>A plan containing details for the management of waste, 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 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>Reason: To provide for the appropriate management of waste, especially recyclable materials, in the interest of protecting the environment.</p>
13.	<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 open spaces, roads, parking spaces and circulation areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
14.	<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>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the</p>

	Development Contribution Scheme made under section 48 of the Act be applied to the permission.
--	--

Jimmy Green
Senior Planning Inspector

18th May 2022