



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315164-22

---

<b>Development</b>	Demolition of structures, construction of extension, alterations to building and change of use.
<b>Location</b>	214-216-218 Harold's Cross Road, Harold's Cross, Dublin 6W
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	4449/22
<b>Applicant(s)</b>	Harold Properties Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Graham Walker
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	2 <sup>nd</sup> September 2023
<b>Inspector</b>	Una O'Neill

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	5
3.3. Prescribed Bodies .....	6
3.4. Third Party Observations .....	6
4.0 Planning History.....	7
5.0 Policy Context.....	7
5.1. Dublin City Development Plan 2022-2028 .....	7
5.2. Natural Heritage Designations .....	7
5.3. EIA Screening .....	7
6.0 The Appeal .....	8
6.1. Grounds of Appeal .....	8
6.2. Applicant Response .....	8
6.3. Planning Authority Response .....	9
6.4. Observations .....	9
6.5. Further Responses.....	9
7.0 Assessment.....	10
8.0 Recommendation.....	14
9.0 Reasons and Considerations.....	14
10.0 Conditions .....	14

## 1.0 Site Location and Description

- 1.1. The subject site is located within a block of terraced two storey buildings on the western side of Harolds Cross Road, in Harolds Cross village, Dublin 6W.
- 1.2. The site, which has a stated area of 523.18 sqm, comprises a retail business and motor sales at ground floor, with the first floor indicated to be in office use. To the rear is an existing single storey car valet and yard area. The building is accessed from Harolds Cross Road by pedestrians, with car parking for the car sales showroom to the front of the building. There is a side/rear vehicular access to the property via Mountain View Avenue, which provides access to a car parking/yard area used by the existing car sales/valeting business on the site. Shamrock Villas laneway is directly to the rear of the site, and provides rear access on its eastern side to the rear of the properties fronting Harolds Cross Road and on its western side to a small number of businesses and residences. There are bollards across this laneway preventing a cut-through vehicular access from the adjoining streets at either end but allowing for pedestrian/cyclist connectivity. The Dublin City Council planning officer's report notes that a gate erected partially across Shamrock Villa's adjoining the site is without the benefit of planning permission.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the following:
  - Permission to demolish an existing car valeting canopy / washing station and single storey building at rear of units 214-216.
  - Erect new 2 storey extension at rear of units 214-216 to consist of one open-plan retail unit on ground floor and one open-plan professional office on first floor.
  - For the existing 2 storey building proposed internal alterations are the integration of ground floors at unit no's 214-216 (currently 'Graham Walker Cars') and at unit 218 (currently 'Gold Thai Massage') into one open-plan retail unit, also the integration of first floors at unit no's 214-216-218 (currently 'Graham Walker Cars') into one open-plan professional office.

- Change of permitted use from 'shops and offices' (plan no. 0395/91) to retail use for the ground floor and to professional office use for the first floor.
- New ground floor fenestration to front elevation. Access to front retail unit will be from Harold's Cross Road. Access to the rear retail unit and both first floor professional offices will be from an existing vehicular gate entrance on Mountain View Avenue with an additional entrance to the rear ground floor retail unit from Shamrock Villas.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Following the receipt of a response to a request for further information in relation to the design of the proposed shop frontages, permission was GRANTED on 27<sup>th</sup> October 2022, subject to 13 conditions, including the following:

- C4: The retail units shall not be open to the public between 2200HRS and 0730HRS.
- C5: The amalgamated open-plan retail units at ground floor level shall be used as a Shop as set out under Class 1 Schedule 2, Part 4 of the Planning & Development Regulations 2001 (as amended). The open-plan space at first floor level shall not be used as a betting office.

The precise detail of the proposed office use, detailed drawings of any associated signage, together with opening hours shall be agreed in writing with the Planning Authority prior to the operation of this premises.

- C8: The requirements of DCC's Transport Planning Division shall be undertaken as follows:
  - a) Prior to commencement of development, the applicant / developer shall prepare and submit revised plans for the written approval of the Environment & Transportation Department which shows the full area to the front of the property along Harold's Cross Road and identifies measures in the form of bollards and or hard landscaping to prevent the parking of vehicles on the private landing.

- b) Prior to commencement of development, and on appointment of a main contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management, hours of working, noise management measures, off-site disposal of construction/demolition waste and access arrangements for labour, plant and materials, including location of plant and machine compound. This plan shall be developed with reference to the 'Construction and Demolition Good Practice Guide' produced by the Air Quality Monitoring and Noise Control Unit of Dublin City Council.
- c) All cycle parking shall be of the Sheffield Style design to allow both wheel and frame to be locked.
- d) Entrance doors onto Shamrock Villas shall be inward opening.
- e) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.
- f) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The Planning Officer's report generally reflects the decision of the Planning Authority. The following is of note:

- Principle of development concerning two retail units and two office units acceptable and permissible under zoned objective Z4.
- As no definite user identified, condition recommended to ensure retail units are used for Class 1 only and that offices units are not used for purposes that could result in an undesirable/incompatible use or the proliferation of certain uses in the locality, ie a betting office.
- Concerns in relation to shopfront design. Response to FI request deemed acceptable and in accordance with guidance set out in the DCC Shopfront Design Guide.

- Extension acceptable in terms of scale.

### 3.2.2. Other Technical Reports

Drainage Section – No objection subject to conditions.

Environmental Health Officer – No objection subject to conditions.

Roads Section – No objection subject to conditions.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

Eleven observations were made. The issues raised are largely as set out in the grounds of appeal (see Section 6 hereunder) and included the following:

- Retail unit to the rear with access from the rear is unsatisfactory and does little to enhance the public realm.
- Access to the rear unit from Mountain View Avenue is not designed for pedestrians.
- Pedestrian access from Shamrock Villas is directly onto a vehicular road. No pedestrian facilities on that side of Shamrock Villas.
- The use of the yard is unclear. It appears that it will serve cyclists, pedestrians and service vehicles.
- Concerns in relation to lack of parking and traffic in this area.
- The Construction Management Plan needs to fully address the existing traffic and access issues particularly on Mountain View Avenue.
- Lack of footpaths surrounding the site.
- Concerns in relation to servicing and refuse access.
- Concerns in relation to construction access and impact on Mountain View.
- Scale of extension is overbearing and will result in overlooking.
- Concern in relation to impacts on residential amenity.

- The potential uses permitted under Z4 zoning may be inconsistent with the District centre Zoning.

## 4.0 Planning History

PA Reg Ref 0395/91: Permission granted for retention of shops and offices.

PA Reg Ref 1499/97: Permission granted for Replacement of existing two storey commercial unit by a two storey plus dormer level building comprising replacement showroom/display and offices.

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2022-2028

- Zoning Objective Z4: 'Key Urban Villages / Urban Villages' which aims to: To provide for and improve mixed-services facilities. Permissible uses include office, shop (district), shop (local), and shop (neighbourhood).
- Chapter 8: Sustainable Movement and Transport
- Chapter 15: Development Standards
  - Section 15.17.5 – Shopfront and Façade Design, including signage.
- Appendix 15 of Volume 2 contains the relevant land use definitions.

### 5.2. Natural Heritage Designations

The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and the South Dublin Bay SAC (Site Code 000210).

### 5.3. EIA Screening

Having regard to the minor nature and scale of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, 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**

One appeal has been lodged by Hughes Planning and Development Consultants, on behalf of their client Graham Walker, which is summarised as follows:

- Site use, parking and access: DCC has applied a condition in relation to Class 1 retail use. The proposal does not comply with development plan standards regarding retail development. There are a number of potential uses, each with varying requirements.
- Car parking is being removed from the rear of the site but concerns in relation to parking with provision for additional retail and office floor space. The proposal fails to meet parking requirements and will result in increased traffic hazard. The site is situated in area 3 of map J, where guidance on car parking spaces is provided at the maximum scale due to the proximity to the city centre. Omission of parking unacceptable in terms of future staff and customers and will result in hazardous parking.
- Curtis Consulting Engineers has submitted a letter with the original objection highlighting concerns regarding the access of vehicles to the site for services purposes. No details submitted with the application to provide clarity on the capacity of Mountain View Avenue and Shamrock Villas to facilitate this development.
- Proposal is unsuitable and will compromise the amenity of the surrounding area.

### **6.2. Applicant Response**

A response from the applicant in relation to the grounds of appeal was received on 15.12.22 and is summarised as follows:



- The rear receiving area is sufficient in area requiring vehicular access. Rear access to the ground floor of Shop no. 2 is augmented by additional access from Shamrock Villages and has no effect on traffic.
- Traffic Hazard – The intended alternative uses will lessen the likelihood of a traffic hazard when compared to the frequency of traffic use that currently arises from the existing activities of used-car sales, vehicle valeting/washing, vehicle workshop, residential, massage services and touch therapy.
- DCC advised parking would not be allowed within the curtilage of the building given the area is well served by public transport.
- In response to query over discrepancies of floor area on application form – question 10 related to floor area of the building (589.11sqm) and question 8 relates to a breakdown of areas, which is as follows: 468.59sqm relating to proposed uses; the remaining 120.53sqm is the floor area of the previously approved offices which does not require a change of use and so falls within the existing floor area. The combined area is 589.11sqm.
- CMP not submitted – DCC accepted this and applied a condition.
- In relation to Q22 and pre-planning, there was no formal meeting. There was email correspondence with the area planning officer, transport and environmental services.

### 6.3. Planning Authority Response

A report was received from the PA on 20.12.22 which states the PA would request that the Board uphold their decision and request a Section 48 development contribution be applied if permission is granted.

### 6.4. Observations

None.

### 6.5. Further Responses

None.

## 7.0 Assessment

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

- Zoning
- Traffic and Car Parking
- Design and Impact on Amenity

I note the Planning Authority's assessment of this application was undertaken under the previous development plan, which was in effect at the time of its assessment. I assess hereunder the application against the operative development plan, namely Dublin City Development Plan 2022-2028.

### Zoning

- 7.1. The subject site is located within zoning objective Z4, the objective for which is to provide for and improve mixed-services facilities. The provision of retail uses and offices is acceptable in principle within the zoning objective for the area, subject to assessment against all other normal planning criteria.
- 7.2. I note concerns raised in the third-party submission that there is a lack of detail in relation to future users of the retail and office uses and different users may have different servicing requirements.
- 7.3. I am satisfied that the development description is clear that the change of use is from permitted use 'shops and offices' (plan no. 0395/91) to retail use for the ground floor (two units) and to professional office use (two units) for the first floor. While the end users have not been identified, I consider it sufficient that the use has been clearly identified and a condition in this regard would be warranted, should the Board be minded to grant permission.
- 7.4. I noted upon site inspection there may be an existing residential use at the first floor and I am not clear if this is a permitted use as it is not shown on the drawings. Nonetheless, any unauthorised use is an issue for the planning authority. I am clear

that this permission is seeking change of use to retail and offices and there is no provision whatsoever for a residential use as part of this application.

- 7.5. Concerns raised in relation to parking requirements are addressed separately hereunder.

### **Traffic and Car Parking**

- 7.6. It is proposed to remove parking from the front of the site and from the rear yard. To the front of the site, it is proposed to erect bollards to prevent parking and to erect 3 no. Sheffield cycle stands. The rear yard is to comprise a covered cycle parking area for eight bicycles, with the existing vehicular access onto Mountain View to be retained for use by servicing vehicles for the two retail units and the two office units, with one set down place to be provided (not identified on the drawings).
- 7.7. The third party submission raises concerns in relation to the omission of parking from the site and resultant impact on traffic flow in the area, potential overflow on surrounding area, and creation of a traffic hazard.
- 7.8. The PA report raises no issues with the omission of parking from the site. The Transportation Section report notes that given the scale of development and the expected level of servicing, the proposed use of the yard for servicing is acceptable.
- 7.9. The appeal site falls within parking Zone 2 (Map J of the Dublin City Development Plan 2022-2028). The operative development plan, under chapter 8, states car parking policies place a particular emphasis on car parking as a demand management tool by limiting car parking at destination based on a location's accessibility. The car parking standards in the development plan are maximum standards, with no minimum standard. The development plan states that a relaxation of maximum car parking standards will be considered in Zone 1 and Zone 2 for any site located within a highly accessible location.
- 7.10. I have examined the site in terms of its location within the village core of Harolds Cross, proximity to high frequency Dublin Bus routes as well as segregated cycle path along the adjoining Harolds Cross Road, and proposals for cycling provision to the front and rear of the site for customers and staff of the development. I am satisfied that the appeal site is a highly accessible site in terms of public transport and serves a large population/local community within walking distance of the site.

The proposal will support sustainable communities through promotion of active travel (walking and cycling) and will support delivery of an improved public realm to the front of the appeal site, which at present is poor given the presence of parking to the front of the building between the building and the public footpath. I am satisfied that the proposal to omit parking is warranted and will not result in overflow parking or a traffic hazard at this high accessible and walkable location within the centre of Harolds Cross.

- 7.11. With regard to servicing vehicles utilising the rear yard area, I note the concerns raised by the third party in their submission and the accompanying Curtis submission in relation to turning areas and traffic hazard. I have reviewed the details proposed and I acknowledge the vehicular access off Mountain View Avenue is narrow, as it is for other existing businesses/residences using this road, however the access in my opinion is reasonably wide to allow for movement in/out of the site. I consider it reasonable that occasional use for servicing is proposed, which would limit any potential obstruction on Harolds Cross Road caused by servicing vehicles. I also note that the omission of parking from the rear yard area and the removal of the car valet business will overall reduce the number of vehicles accessing the site via Mountain View Avenue. I consider a condition would be warranted requiring details of all new deliveries, including their time, frequency and manner, to be submitted to the planning authority for agreement, should the Board be minded to grant permission.
- 7.12. With regard to water services, I note Dublin City Council raises no concerns in this regard. I note that while an extension is proposed, the existing building is serviced. Permeable paving is proposed in the rear yard. I consider a condition would satisfactorily address the issue of SUDS and the requirements of the PA, should the Board be minded to grant permission.
- 7.13. In terms of details in relation to the public realm, bollards, cycle parking etc, this could be addressed by way of condition, should the Board be minded to grant permission.
- 7.14. With regard to management at construction stage, I am satisfied that a Construction Management Plan for this scale of development is not required at this stage and can be satisfactorily addressed by way of condition and agreement with the PA.

## **Design and Impact on Amenity**

- 7.15. In terms of shopfront design, the applicant proposed changes at FI stage to the front elevation and proposed a retail frontage for the rear retail unit to the side of the site fronting Mountain View Avenue.
- 7.16. I am satisfied that the proposal overall is in accordance with Guidance on Shopfront Design as set out in Chapter 15 of the operative development plan, and also the referenced Dublin City Council's Shopfront Design Guide, 2001. I note the retail shop unit to the rear has been designed with its primary façade facing toward Mountain View across the existing yard, and not on the rear elevation facing Shamrock Villas laneway. I note the laneway primarily serves as a rear entrance way to the units fronting Harolds Cross Road with a handful of businesses and residences having their primary access from this laneway. I consider the proposed elevation onto the laneway will improve the currently low level of passive surveillance along this laneway, which is to be welcomed. I do not consider that an additional shopfront design to the laneway is warranted in addition to the primary shopfront elevation to Mountain View Avenue. A condition in relation to the detail of shopfront signage (given details in relation to occupants are not yet known), would be warranted should the Board be minded to grant permission.
- 7.17. With regard to the scale of the two-storey extension, I am satisfied that the proposal is not overbearing and will not result in significant overlooking or overshadowing of neighbouring properties.

## **Other Matters**

- 7.18. I note concerns raised in relation to the figures identified for the floor areas on the application form. I am satisfied that the extent of development, existing and proposed, is clear from the scaled drawings submitted and the matter has been adequately addressed by the applicant in its response to the third-party appeal.

## **Appropriate Assessment**

- 7.19. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development

would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

- 8.1. It is recommended that permission for partial demolition, extension, internal alterations and change of use of existing building be granted, subject to the following conditions.

## 9.0 Reasons and Considerations

Having regard to the location of the site within the village of Harolds Cross, the Z4 zoning objective relating to the site, and the existing pattern of development in the area, it is considered that the proposed development is in keeping with the character of the area, would not seriously injure the residential or visual amenities of the area or of properties in the vicinity, and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<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 to the planning authority on 30<sup>th</sup> September 2022, 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><b>Reason:</b> In the interest of clarity.</p>
----	---

2.	<p>Prior to the operation of the retail and office units, the exact uses shall be agreed in writing with the Planning Authority and details in relation to all external shopfront and fascia signage shall be submitted to, and agreed in writing with, the planning authority.</p> <p><b>Reason:</b> To clarify the scope of the permission and in the interests of the visual amenities of the area.</p>
3.	<p>The shopfronts shall be in accordance with the following requirements:-</p> <p>(a) Signs shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering,</p> <p>(b) no additional awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,</p> <p>(c) external roller shutter shall not be erected. Any internal shutter shall be only of the perforated type, coloured to match the shopfront colour,</p> <p>(d) no adhesive material shall be affixed to the windows or the shopfront.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no further advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the visual amenities of the area.</p>
5.	<p>No further amalgamation of units or subdivision of any unit shall take place without a prior grant of planning permission.</p> <p><b>Reason:</b> To control the layout and scale of the development in the interests of protecting the vitality and viability of the area.</p>
6.	<p>The hours of opening of the retail units shall be restricted to between 0730 hours and 2200 hours.</p>

	<p><b>Reason:</b> In the interests of orderly development and to protect the amenities of adjacent property.</p>
7.	<p>Full details in relation to deliveries and the set down space to the rear yard of the site shall be submitted to and agreed in writing with the planning authority prior to the operation of the permitted units.</p> <p><b>Reason:</b> In the interest of traffic safety.</p>
8.	<p>All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
9.	<p>The developer shall comply with the following requirements:</p> <p>a) The developer shall prepare and submit revised plans indicating specifications and finishes to the front of the property along Harolds Cross Road, including measures in the form of bollards and/or hard/soft landscaping to prevent the parking of vehicles on the private landing. These plans shall be submitted to the planning authority for written agreement prior to the commencement of development.</p> <p>b) All cycle parking shall be of the Sheffield style design.</p> <p>c) Entrance doors onto Shamrock Villas shall be inward opening.</p> <p>d) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.</p> <p><b>Reason:</b> In the interests of traffic safety and the amenity of the area.</p>
10.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p>



	<b>Reason:</b> In the interest of public health.
11.	<p>The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.</p> <p><b>Reason:</b> In the interest of orderly development.</p>
12.	<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 planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
13.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental 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 access arrangements for construction traffic, 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>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</p>

	<p>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>
--	--

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Una O'Neill  
Senior Planning Inspector

4<sup>th</sup> September 2023