



An
Bord
Pleanála

Inspector's Report

ABP-321531-24

Development	Demolition of structures and construction of 17 apartments and all associated site works.
Location	No. 203 & 207 Harold's Cross Road, Dublin 6W, Co. Dublin
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4327/24
Applicant(s)	XCM Properties Limited
Type of Application	Planning permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	XCM Properties Limited.
Observer(s)	Hugh and Colleen O'Neill Harolds Cross Village Community Council Karen Collum and Maurice Flanagan John O'Sullivan and Oonagh O'Sullivan

David and Anna Coyle

Suzanne Chadwick

Eamonn Augustine Ó Duibhgeannain

Johnny O'Mahony and Eva Nagle

Philip O'Reilly

Date of Site Inspection

13th March 2025

Inspector

Sarah O'Mahony

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1.0 Site Location and Description

- 1.1. The 439.8m² site is situated south of Dublin city centre in the Harolds Cross area, 200m southeast of Mount Jerome cemetery. It comprises 2no. two-storey units (nos. 203 and 207 Harolds Cross Road) facing directly onto the R137 Harolds Cross Road. There is a second entrance at the rear from a cul-de-sac laneway.
- 1.2. The ground floor of both units are commercial premises with residential uses on the first floors. It is not clear if any of the units are occupied however both commercial units were closed on the day of the site inspection.
- 1.3. It should be highlighted at this early stage that the units are terraced with no. 205 set in between. No. 205 is a ground floor unit and does not form part of the site as it is outside the ownership of the Applicant and will remain in situ. Nos. 203 and 205 were formerly one two-storey unit with the ground floor of no. 205 subsequently annexed. The first floor above both units comprises one residential unit referred to as no. 203a.
- 1.4. Nos. 203 and 205 comprise a two-storey, three-bay structure. This building has three pitched roofs with a parapet to the front giving the impression of a flat roof when viewed from the street. It is finished in a mix of rough and smooth render. No. 207 is a two-storey, gable fronted, three bay structure finished in a mock Tudor style. Despite the gable on the front elevation, the remaining roof to the rear is hipped. There is a small area of enclosed open space to the rear of each unit including a terrace at first floor serving the residential unit at no. 207.
- 1.5. The area is characterised with a mix of commercial and residential properties however all immediately adjoining property appears to be in residential use.
- 1.6. There is a three-storey, five-bay, red-brick structure situated on the adjacent property to the north which features on the Dublin City Record of Protected Structures. Ref 3584 applies. This building is a former orphanage and referred to as no. 199a-201 Harolds Cross. It was recently refurbished and extended to include new infill units to the rear. One element of the new units comprises a small three storey apartment block with frontage and private open spaces facing a laneway at the east of the subject site. The side elevation of this block also forms the eastern boundary of the

site. There is a gate situated on the laneway providing access to the rear of the site immediate adjacent to the new infill units.

- 1.7. There is a row of two-storey, two-bay, red-brick, semi-detached and terraced dwellings to the south of the site on Leinster Road which are also all protected structures. These dwellings have long rear gardens which face the same laneway and many have gates accessing the lane.
- 1.8. The lane itself is approximately 60m in length and runs on an east-west axis with access from Grosvenor Lane further east. It provides access to the rear of the Leinster Road dwellings as well as dwellings on Leinster Place.

2.0 Proposed Development

- 2.1. Planning permission is sought for development which comprises the following:
 - Demolition of the existing structures at 203 and 207 Harold's Cross Road however as stated previously no.205 will remain in place and is outside of the site boundary.
 - Construction of a part 3, 5 & 6-storey residential development consisting of 17 no. Apartments comprising:
 - 04 no. studio apartments,
 - 05 No. one-bed apartments and
 - 08 No. two-beds apartments.
 - The ground floor would comprise 2no. units, a bin store, bike store and ancillary plant rooms.
 - The first and second floors would comprise 4no. units each.
 - The third floor would comprise 3no. units and a 72.9m² rooftop terrace in the northwest overlooking the street and adjacent 199a-201 Harolds Cross.
 - The fourth floor would comprise 3no. units, and
 - The fifth floor comprises 1no. unit at the east and a 115.6m² rooftop terrace to the west.

- Materials and finishes primarily comprise a mix of brick and render. The sixth storey would be finished with a metal cladding while the southern elevation which has no fenestration is proposed to have some extruded brick detailing which would also be replicated on the front elevation of the ground floor at the bike store. A large lightwell is proposed on the northern elevation as well as some recessed brick features replicating window openings. Balconies are all integrated and set back within the building's envelope. A blue/green roof is proposed for the roof of the fifth floor unit.

2.1.1. The following documentation was received with the application along with standard drawings:

- Design Statement including:
 - A daylight assessment for the proposed units,
 - 3D images,
 - Fire safety, access and demonstration of compliance with Parts B and M of the Building Regulations,
 - Housing Schedule, and
 - Housing Quality Assessment.
- Architectural and Built Heritage Assessment
- Sustainability Report/Energy Assessment
- Outline Construction Management Plan
- Outline Resource Waste Management Plan
- Engineering Services Report
- Site Specific Flood Risk Assessment

3.0 Planning Authority Decision

3.1. Decision

3.1.1. A notification of decision to REFUSE planning permission was issued by Dublin City Council (the Planning Authority) on 02nd December 2024 for 4no. reasons as follows:

1. *Having regard to the height, scale, massing and proximity of the proposed development to the rear of the Protected Structure at Number 199A-201 Harold's Cross Road, and also to rear gardens of a number of properties on Leinster Road, which are also Protected Structures, it is considered that the proposed development is overly dominant, would not conserve or enhance the special architectural character of the setting of the Protected Structures at Number 201 Harold's Cross Road and properties on Leinster Road, their setting and streetscape and would contravene Policies BHA2 (a), (b), (d), (e), (h) and BHA6 of the Dublin City Development Plan (2022-2028) and would set an undesirable precedent. The proposed development would thereby seriously injure the visual and residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.*
2. *The applicant has failed to provide sufficient justification for the demolition of the buildings on site, or provide an accurate appraisal of the significance of these buildings. As per Policy BHA6 of the current Dublin City Development Plan (2022-2028), there shall be a presumption against demolition of substantial loss against structures evident on the First Edition OS Map unless it can be demonstrated that the structure has little or no special interest or merit. The proposed development would therefore be contrary to Development Plan policy, and to the proper planning and sustainable development of the area.*
3. *Having regard to the footprint of the block along the rear boundary wall of the adjoining property at number 199A-201 Harold's Cross Road, which is a Protected Structure, and the location of a number of high level windows built directly onto the boundary with this site, over six floors, it is considered that the proposed development would result in an overbearing and incongruous form of development, and would impact on the development potential of this site due to the location of the windows. The proposed development would seriously injure the residential amenities of this property, which is a Protected Structure, would contravene Policies BHA2 and BHA6 of the Dublin City Development Plan 2022-2028 and would set an undesirable precedent. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

4. *The proposed development provides for a density of 386 units per hectare which is contrary to the density range requirements set out in Appendix 3 of the Dublin City Development Plan (2022-2028) and contrary to Policy and Table 3.1 of the Sustainable and Compact Settlements Guidelines, 2024. It is therefore considered that the proposed development would result in overdevelopment of this site, and would provide for a significantly excessive density contrary to National and Local Policy Objectives. The proposed development would seriously injure the amenities of properties in the area and would be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planners report recommendation to refuse permission is consistent with the notification of decision which issued.
- The report states how the Planning Authority supports the provision of high-quality housing in the city and generally welcomes innovative infill schemes but that the scale and layout of the proposed development would be inappropriate and would negatively impact adjoining protected structures, that an insufficient rationale is put forward to demolish the existing structures and that excessive densities are proposed.
- Regarding the proposed demolition, the Planners report had regard to the Architectural and Built Heritage Assessment submitted with the application but considered it inadequate to justify demolition and that a full assessment of the buildings was not provided. It notes the buildings appear on the first edition 1840s OS mapping.
- It classifies the site as a city urban neighbourhood as per Table 3.1 of the Sustainable Residential Development and Compact Settlement Guidelines which advises densities of 50-250dph for such areas. It also highlights a narrative in Appendix 3 of the Dublin City Development Plan 2022-2028 which states *There will be a general presumption against schemes in excess of 300 units per hectare.*

- It acknowledges the lack of public open space proposed within the scheme but considers in this case that a financial contribution could be applied, however it does not justify why this would be acceptable.
- Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) issues are both screened out.

3.2.2. Other Technical Reports

- Drainage Division: Further information recommended regarding the justification for and detailed design of the blue roof.
- Conservation Officer (CO): Recommendation made to refuse permission due to impacts to the surrounding protected structures. It outlines how insufficient assessment and appraisal of the existing historical buildings and a lack of justification to demolish same is made in the application documents. For example, the CO report submits that boundary walls may form part of the curtilage of the adjacent protected structure and that the social significance of the buildings has not been appraised. It considered there is merit in retaining the Tudor revival building to retain the character of the streetscape and that further careful and detailed research and analysis is required to accurately and sufficiently determine the significance of the structures. Concerns were also raised regarding construction impacts to the adjacent protected structures as well as visual impacts as the design is considered overbearing and detrimental to the receiving historic environment.
- Transport: The report states that the Transport Division accepts the proposed zero car parking proposal but subject to the provision of good cycle parking and a robust Bicycle Design Statement being provided. Further information was recommended in that regard together with the submission of a Servicing and Access Strategy/ Management Plan and a revised Outline Construction Management Plan to address construction access concerns.

3.3. Prescribed Bodies

The application was referred to the following however no response was received:

- Uisce Éireann

3.4. Third Party Observations

3.4.1. 13 no. observations were received from the following:

1. Harolds Cross Village Community Council CLG
2. Alan and Eva Brennan
3. Suzanne Chadwick
4. Dr. Roslynn and Mr. James Quinn
5. John O'Sullivan and Oonagh O'Sullivan
6. Philip O'Reilly
7. Karen Collum and Maurice Flanagan
8. Hugh and Colleen O'Neill
9. Alan Massey
10. Johnny O'Mahony and Eva Nagle
11. Professor Johnanna Ivers and Matthew Dunne
12. Seán Lynch
13. David Coyle

3.4.2. The following concerns were raised in the observations:

- Impact to protected structures and failure to assess and address impacts.
- Impact to the historical character and amenity of the area. Precedent set by previous proposals at no. 199 Harolds Cross.
- Impact to adjoining residential amenity by reason of visual amenity, impact to existing aspect, overshadowing, overlooking, overbearing massing, light pollution and noise from proposed units. Property devaluation may occur.
- Poor quality proposed residential amenity by reason of proliferation of single aspect and poorly lit units. Lack of open space and non-compliance with internal room standards. Communal open spaces are not overlooked with passive surveillance. Existing open fires in older residences on Leinster Road would

generate air quality impacts for proposed occupants as flow from chimneys would enter new units.

- Lack of Daylight and Sunlight Assessment.
- Inadequate landscaping details.
- Overdevelopment of the site and non-compliance with plot ratio, site coverage and density standards. Over 50% of units would be 1-bed contravening SPPR1.
- Lack of car parking.
- Issues relating to the design, excessive height, scale and massing of the proposed structure which fails to respond to the existing built environment. Existing buildings in the area are all under 3 stories.
- Inappropriate and unclear access arrangements. Emergency service access unclear. Laneway to rear is privately owned with no access currently in place between it and the site. No access for future maintenance of boundary walls or for demolition of existing party walls.
- Inadequately designed bin and cycle storage.
- Inadequate Construction Management Plan with no tree protection measures outlined to protect trees in adjoining properties with root zones intersecting the site. Lack of details demonstrating compliance with DCC Green and Blue Roof Guide.
- No clarity on proposed tenure and concern raised that renting tenants would be a transient population not focussed on local activities or growth of the community.
- Contravention of multiple references to the Dublin City Development Plan 2022-2028 and Urban Development and Building Height Guidelines.

4.0 Planning History

- 3259/11: Planning permission granted for a single storey extension to the rear and side of no. 207 Harolds Cross Road.
- 3258/11/X1: Extension of duration granted.
- 2154/19 (PL29S.304183): Planning permission granted for Refurbishment and extension of 199, 201 & 201a Harold's Cross Road for the purposes of providing 13

no. apartments with 7 no. in the protected structure, a change of use to residential of a vacant retail unit and demolition of an industrial unit with construction of 5no. infill units in its place at the rear of the protected structure. Order signed 01st August 2019. The Board should be aware that this development, including the new infill units to the rear, has commenced and is largely complete however it was not clear at the time of the site inspection if the units are occupied. The infill units with frontage onto the laneway and which form the eastern boundary to the site are referred to throughout this report as the 'new infill units'. They are reflected on drawing no 200 titled 'Proposed Elevations 1-1 and 2-2 with context' however they are not illustrated on the site layout plans. Upon further inspection it appears that the full extent of permitted and now in-situ development is not reflected on the drawings received with this subject application, most notably a rear extension along the northern boundary of this site and southern boundary of no. 201 Harolds Cross. This is discussed in more detail in the relevant section later in this assessment.

- 4.1.1. I also note the Applicant's cover letter provides details of similar infill apartment schemes in the area providing their planning application references.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2022-2028 (referred to hereafter as the CDP). The site is zoned Z1 for sustainable residential neighbourhoods where the objective is *to protect, provide and improve residential amenities*.

- 5.1.2. Objective QHSN36 seeks to:

"promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood."

- 5.1.1. Policy BHA2, as set out in Chapter 11, seeks to conserve and enhance protected structures and their curtilage through a range of measures including (b) to protect

structures included on the RPS from any works that would negatively impact their special character and appearance and (d) Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials. The full text of policy BHA2 is attached to the report.

5.1.2. Policy BHA6 states the following:

“there will be a presumption against the demolition or substantial loss of any building or other structure which appears on historic maps up to and including the Ordnance Survey of Dublin City, 1847. A conservation report shall be submitted with the application and there will be a presumption against the demolition or substantial loss of the building or structure, unless demonstrated in the submitted conservation report this it has little or no special interest or merit having regard to the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities (2011).”

5.1.3. Appendix 3 of the plan sets out guidelines for higher buildings in areas of historic sensitivity. It classifies landmark or tall buildings as structures greater than 50m in height and which are substantially taller than their surroundings and that generally larger sites over 2ha offer the best potential for such buildings as they are able set their own context. It states:

‘Any proposal for a landmark/tall building/s must undertake a thorough context and urban design analysis and a Cityscape Assessment including detailed modelling and photomontages. It must be demonstrated that the landmark/tall building proposal will not have an adverse impact on sensitive locations including conservation areas and protected structures and sensitive views. Even where a site has been identified as an appropriate location for a landmark/tall building, the proposal must meet all of the performance based assessment criteria for landmark/tall buildings.’

5.1.4. It sets out a list of criteria to be met in tables 3 and 4 to justify provision of a building taller than the prevailing height. These include matters such as promoting a sense of place and character, providing legibility, high quality places, a diversity of activities and protection of historic environments from insensitive development.

Taller/landmark buildings must demonstrate, inter alia, exemplary architecture, sustainable design and green credentials and good quality public realm.

- 5.1.5. In relation to impacts to historic structures, objective 6 of table 4 states the following:

Landmark/tall building proposals must demonstrate the impacts on the historic context, including the need to ensure that the proposal will preserve and/or enhance historic buildings, sites, landscapes and skylines. Landmark/tall building proposals must address their effect on the setting of, and views to and from historic buildings, sites and landscapes over a wide area. It must be demonstrated that the building will have no adverse impact on the built cultural or historical heritage of the city including Architectural Conservation Areas and Protected Structures and their curtilage and National Monuments.

- 5.1.6. Chapter 15 sets out development management standards for residential development. In relation to apartment uses, the majority of the design standards in Chapter 15 align with the Apartment Guidelines noted below. There are some deviations however such as encouraging all developments to meet or exceed 50% of units being dual aspect or to provide 33% units with dual aspect in prime city centre locations.

5.2. Section 28 Guidelines: Urban Development and Building Heights Guidelines for Planning Authorities

- 5.2.1. These guidelines set out national planning policy guidelines on building heights in relation to urban areas, as defined by the census. They 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. 4no. Specific Planning Policy Requirements (SPPRs) are specified and while the first two relate to plan and policy making, SPPRs 3 and 4 are more focussed on implementation and require more diversity and flexibility to secure more compact settlements and taller buildings. The guidelines set out a list of development management criteria to aid in the assessment of proposed taller buildings.

5.3. Section 28 Guidelines for Planning Authorities: Design Standards for New Apartments, 2023

- 5.3.1. The guidelines, hereafter referred to as the Apartment Guidelines, provide quantitative and qualitative standards for apartment development across a range of thresholds depending on the number of units proposed and the site's context. It also sets out SPPRs to be adhered to across a range of parameters including unit mix, car parking and minimum floor areas.

5.4. Section 28 Guidelines: Sustainable Residential Development and Compact Settlement Guidelines

- 5.4.1. The guidelines, hereafter referred to as the Compact Settlement Guidelines, set out a context to create higher density settlements to underpin sustainable development principles. Specific Planning Policy Requirements (SPPRs) are set out including SPPR 1 which refers to minimum standards for separation distances between residential units and opposing windows in habitable rooms.

5.5. Section 28 Guidelines: Architectural Heritage Protection Guidelines for Planning Authorities

- 5.5.1. Part 2 of the Guidelines contain detailed guidance to support Planning Authorities and Developers when a protected structure, a proposed protected structure or the exterior of a building within an ACA is the subject of development proposals. It includes conservation principles, specifications of repair works and a guide on how to consider proposals for a range of architectural features including ironmongery, stonework, roofs and windows etc. It also provides advice regarding shopfronts, attendant grounds and the curtilage of historic buildings. Lastly, it sets out guidance regarding improvements such as following a major disaster or fire, general enabling and temporary works and improving access.

5.6. Natural Heritage Designations

- 5.6.1. The site is situated 4.8km west of South Dublin Bay Special Area of Conservation and proposed Natural Heritage Area (pNHA) as well as South Dublin Bay and River Tolka Estuary Special Protection Area.

5.6.2. The Grand Canal proposed NHA is also situated 800m north of the site.

5.7. EIA Screening

5.7.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The Applicant's appeal against the Local Authority's decision to refuse permission is based on the following grounds:

- A revised proposal is put forward reducing units from 17no. to 15no. by removing two stories in the northeast, adjacent to the protected structure at no 199A-201 Harolds Cross Road. It is submitted that this revised proposal addresses refusal reason no. 1 as it protects the special character and setting of the surrounding protected structures by increasing separation distances and reducing the bulk, massing and density of the building. It also contends that this alteration would address overlooking concerns as per refusal reason no. 3.
- The Architectural Heritage Impact Assessment report submitted with the application was carried out by a Grade 1 Conservation Architect who confirmed that the existing buildings to be demolished hold no architectural or cultural value internally or externally.
- The appeal suggests that Policy BHA6, which presumes against demolition or substantial loss of structures illustrated on the first edition OS mapping, is opaque and overly precautionary. It suggests that an evidence based, common sense approach should apply and submits that in this case, architectural significance of the existing buildings does not outweigh the public good requirement for infill

development and new urban housing as the buildings hold no architectural or cultural significance. The appeal therefore suggests that reason no. 2 is addressed.

- Emphasis is put on the compact settlement policies, the urban infill nature of the site and its location which is serviced and well connected to public transport.
- The proposed design is innovative which responds to the constrained site. The reduced density is acceptable in planning terms and all units comply with residential standards. No objections were raised in the Local Authority's drainage or transport reports and therefore it considers that the revised proposal addresses reason for refusal no. 4.
- The precedent of dense infill apartment schemes 2-5 stories in height in the area is submitted. It suggests that the definition of 'city urban neighbourhoods' as per the Compact Settlement Guidelines is a broad term and densities higher than 250dph can be acceptable. It submits that Harolds Cross is an important location for apartments given the lack of infill sites in Rathmines and Portobello, and that the site is the same distance to St. Stephens Green as Ballsbridge. It also suggests that 'city urban neighbourhoods' can include more peripheral areas of the city such as Terenure and Donnybrook, and that flexibility is included in the guidelines for residential densities on a case by case basis.
- References made to the Case Planners report where the principle of development was considered acceptable as well as items such as requiring a financial contribution in lieu of public open space.
- It submits that the Board can assess the development in the context of consistency with the proper planning and sustainable development of the area

6.2. Planning Authority Response

6.2.1. Dublin City Council request that An Bord Pleanála uphold the decision made but in the event planning permission is granted that the following conditions are attached:

- A Section 48 financial contribution,
- A condition requiring payment of a bond for unspecified reasons.

- A financial contribution in lieu of the open space requirement not being met (if applicable),
- A naming and numbering condition, and
- A management company condition.

6.3. Observations

6.3.1. 9 no. observations are received from the following:

1. Hugh and Colleen O'Neill
2. Harolds Cross Village Community Council
3. Karen Collum and Maurice Flanagan
4. John O'Sullivan and Oonagh O'Sullivan
5. David and Anna Coyle
6. Suzanne Chadwick
7. Eamonn Augustine Ó Duibhgeannain
8. Johnny O'Mahony and Eva Nagle
9. Philip O'Reilly

6.3.2. They raise the following issues:

- There is no need for the development as it does not have the infrastructural resources or amenities to support it. Concern that it would not be finished. Concerns regarding the proposed tenancy type.
- Built Heritage report is insufficient to determine significance of existing structures. More detail should be present on the extant of historic and modern building fabric. It does not take account of protected structures on Leinster Road but does reference others further removed from the site. Questions raised as to the adequacy of the report's author's qualifications.
- Section 11.5.2 of the City Development Plan sets out an intention to make Harolds Cross an Architectural Conservation Area. DCC methodology for additions to the RPS is inadequate.

- Proposed revisions are insufficient to address the fundamental refusal reasons. The design is still overbearing and incongruous, detracting from the setting of the street and protected structures. It would also create a visual impact affecting residential amenity and detract from the existing view.
- Revised development would not comply with Z1 zoning objective.
- High level windows on the northern elevation will still negatively impact the future development potential of 199A/201 Harolds Cross.
- Overlooking to all adjoining properties including adjacent protected structure, dwellings on Leinster Place and at Leinster Road.
- Overshadowing to Leinster Road.
- Property devaluation.
- Operational noise impact to adjoining residential amenity from proposed balconies and open spaces. Introduction of artificial light, impacting residential amenity.
- Existing open fires in Leinster Road properties would create air pollution impacting future residents.
- The modifications are negligible in terms of density and still exceed density, plot ratio and site coverage standards. Revised proposal would still contravene appendix 3 of the City Development Plan and Table 3.1 of the Compact Settlement Guidelines.
- Poor quality layout including inappropriate pedestrian entrance, questions regarding structural integrity for boundary walls or lightwells, insufficient detail for landscaping, poor internal residential amenity with compromised room widths, aspect and inadequate natural light, poor quality communal open space.
- Existing site is in the flood catchment area for the nearby Swan River and DCC Drainage department inaccurately dismiss its flooding impacts.
- Issue raised regarding construction and operational stage waste management.
- Lack of car parking and clarity sought over access proposals including emergency access. Concern regarding increased traffic.

- Concerns regarding construction stage access and general construction management including tree protection measures, works to boundary walls and retention and maintenance of no. 205 Harolds Cross Road. Requirement for independent oversight of materials to ensure quality is adequate. Construction stage impacts such as noise and air quality would impact residential amenity.
- Development would materially contravene Sections 3.1, 3.2, 4 and 6 of the City Development Plan as well as SPPR1 and SPPR3 of the Building Height Guidelines.
- Impacts to urban wildlife.
- Proximity of existing high density apartment schemes. Applicant's list of precedence examples in the area are not comparable in terms of site context and characteristics. Footfall of Harolds Cross is lower than neighbourhoods listed by the Applicant.
- Request to uphold the decision to refuse permission and focus on converting vacant properties.

7.0 Assessment

7.1. Introduction

- 7.1.1. A revised proposal is received with the appeal which proposes to remove 2no units and subsequently 2no. floors at the northeast of the site and which, it is submitted, addresses the reasons for refusal. This assessment is made de novo but has regard to the revised proposal and in this regard, I highlight to the Board that in this report, all assessments of quantitative standards and matters relating to scale and massing etc are made on the basis of the original proposal and subsequent commentary is made to assess if the revised reduced proposal would address the reasons for refusal and matters raised in the appeal.
- 7.1.2. The site is situated on lands zoned Z1 'Sustainable Residential neighbourhoods' where the objective is *to protect, provide and improve residential amenities*. In this regard the proposal to provide residential units complies with the zoning objective.
- 7.1.3. I have a high-level concern regarding the loss of retail/commercial uses on the ground floor and note that the zoning objective lists many permissible commercial

type uses. In this regard I consider there may be merit in retaining the ground floor commercial use which would also add to passive surveillance and active street frontages, however I do not consider the omission of commercial uses to be a sufficient reason to refuse permission.

7.1.4. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report(s) of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Demolition
- Density and Appendix 3
- Design, Layout and Height
- Quantitative standards
- Built Heritage
- Impact to adjoining Residential Amenity
- Construction Phase

7.2. Principle of Demolition

7.2.1. Policy BHA6 of the City Development Plan sets out a presumption against demolishing structures evident on the 1840s first edition OS mapping unless a conservation report demonstrates that there is little or no special interest or merit in the buildings. Nos 203 and 205 are on the maps in question but it is noted that no. 207, the gable fronted Tudor style structure is not present, and also not present on the 1911 maps.

7.2.2. A Conservation Report was submitted with the application documents, prepared by a Grade 1 Conservation Architect, and concluded that demolition of the existing structures would have a '*direct positive impact on the site as it will involve the removal of the three, two-storey buildings considered of no architectural or cultural merit. The proposed apartment block will provide a significant visual impact on the streetscape and introduce a contemporary statement.*'

7.2.3. Section 3 of the report sets out a brief description of the buildings noting the presence of nos. 203 and 205 on the 1840s maps possibly as one single dwelling and goes on to state that they have been significantly subdivided and altered. It states no. 207 is a mid-20th century structure with modern windows and shop front. It goes on to say that the interiors of each building have been altered and reworked such that they retain no features of merit. It concludes that nos. 203, 205 and 207 *are not considered of architectural or cultural importance but are adjacent to no. 201/201a* which appears to be an alternative reference to no. 199a-201.

7.2.4. The Local Authority Conservation Officer and some of the observations consider that this report is not detailed enough to justify the demolition as proposed. The Applicant however considers Policy BHA6 is opaque and overly precautionary, and that the public need for housing should, in this case, override the lack of architectural significance and facilitate demolition.

7.2.5. I note Section 7.8.2 of the Architectural Heritage Protection Guidelines states:

'In order to appreciate the integrity of a structure, it is important to respect the contribution of different stages of its historical development. Concentration on whether or not various parts of a building are 'original' can obscure the fact that later alterations and additions may also contribute to the special interest of the structure. Of course there may be alterations or additions which have not contributed to the special interest of the building, and which may in fact have damaged it.'

7.2.6. The Conservation Officer's report provides significantly more historical analysis for nos. 203 and 205, including that there was originally an integral carriage archway providing vehicular access to the rear. It provides drawings which also illustrate historical changes to the roof and footprint of the building.

7.2.7. References are also made in the Conservation Officer's report suggesting that the structure formed part of the adjacent orphanage during the late 19th century, which operated in 199a-201 Harolds Cross, the large red brick building north of the site. In this regard it concludes that *insufficient research into the history and significance of the historic building, today known as 203 and 205 Harolds Cross Road, has been completed by the applicant and that an accurate appraisal of the significance had not been made*. References are also made to boundary walls at the rear of no.207 which

likely formed part of the curtilage of 199a-201 Harolds Cross and that the significance of same has not been identified.

7.2.8. The Conservation Officer considers no. 207 may be an early 20th Century Tudor revival/arts and crafts style structure and that its scale and presentation contributes positively to the streetscape, with its retention and reuse stated to be more sustainable and preferable to demolition.

7.2.9. On the basis of all the information presented, as well as noting the absence of more detailed appraisals, I consider that there are two matters on hand: Built heritage which may relate to the protected structure 199a-201 Harolds Cross, and any architectural merit to retaining no. 207.

7.2.10. Regarding remaining built heritage relating to 199a-201 Harolds Cross, I consider that:

- as the original structure of no. 203 and 205 has been so significantly altered,
- as nos. 203 and 205 were ancillary structures, possibly added at a later date and do not appear to have formed an integral function or part of the main orphanage building,
- as items such as boundary walls to the rear were never likely forming part of the streetscape, or have not for many years, and
- as the current architectural character of the buildings are of little merit, with little to no remaining legible features of note,

that demolition would not detract from the setting or special character of 199a-201 Harolds Cross, and also would not significantly impact or detract from the cultural significance of 199a-201 Harolds Cross.

7.2.11. I therefore conclude that demolition of no. 203 and 203a would not contravene Policy BHA6.

7.2.12. With respect to no. 207, I agree that reuse of the existing building would be sustainable however regard should also be had to the sustainability of increasing density and efficiency of serviced urban lands. I will outline in greater detail later in this report my concerns regarding the visual impact of the proposed development, and in this context I agree that retention of no. 207 is preferable to demolition.

However, I consider that the principle of demolition is acceptable as the architectural character of the current building is not, in my opinion sufficiently special or unique to warrant retention based on its own architectural merits.

- 7.2.13. I therefore conclude that the principle of demolition would be acceptable. In the event of a grant of planning permission, a condition could be attached to carry out additional surveying and recording of the significance of the existing structures and their architectural and cultural ties to the adjacent protected structure for record purposes as part of any redevelopment of the site.

7.3. Density and Appendix 3

- 7.3.1. Reason for refusal no. 4 related to non-compliance with density range requirements of the CDP and Compact Settlement Guidelines as a density of 386 units was proposed. The revised proposal submitted with the appeal removed two units so the new density is 341 units/ha (15 units on 0.04398ha).

- 7.3.2. Appendix 3 of the CDP sets out density ranges to be followed 'as a general rule' and it states there will be a general presumption against schemes in excess of 300 units per hectare. It goes on to state that:

Schemes in excess of this density will be only be considered in exceptional circumstances where a compelling architectural and urban design rationale has been presented.

- 7.3.3. The surrounding area is medium density two to three storey terraced structures with an occasional 4-storey building. The appeal does highlight some infill schemes of higher densities and heights in the wider Harolds Cross area, however the streetscape and context of the immediate area reflects the scale of the rows of red brick dwellings and protected structures as well as the two-storey shopfronts and streetscape. There is 1no. four to five storey mixed use and high density scheme situated 215m south of the site which has visual connectivity to the site, however in my opinion it has a different context as it is not surrounded by two storey protected structures such as the subject site but is situated opposite one, namely a catholic church. The church is set back from that taller mixed use scheme as it is on the opposite side of the road.

- 7.3.4. There is also a smaller 1no. 4-storey mixed use scheme situated 73m northwest of the site, again with visual connectivity to the site which provides 2no. residential units over 2no. commercial units. It is situated on the corner of the R137 and Harolds Cross road overlooking the public park and comprises one narrow plan building on a small footprint which successfully addresses the corner site on which it is located.
- 7.3.5. Table 3 of Appendix 3 sets out key criteria to justify densities higher than the prevailing development. It includes factors such as adequate infrastructural capacity, appropriate design response, appropriate housing mix and proximity to high quality public transport, employment and community services. Please see an assessment set out below of the proposed development against the 10 no. objectives of Table 3:

Objective	Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale
1. To promote development with a sense of place and character.	The proposed development would not integrate well with the streetscape as it would exceed the prevailing building height and density in the immediate area. The design is distinctive but is monolithic and does not respect the existing character of the area.
2. To provide appropriate legibility.	Similar to above, the increased density of the proposal does not, in my opinion, respond to the context of the surrounding area and would not contribute positively to the streetscape due to an inappropriate juxtaposition between existing and proposed building heights.
3. To provide appropriate continuity and enclosure of streets and spaces.	The proposed development would reduce passive surveillance at street level due to removal of active street frontage and commercial units.
4. To provide well connected, high quality and active public and communal spaces.	An appropriate level of secure and accessible cycle parking is proposed within the site which is also situated close to high quality public transport corridors.

	Communal open space is situated on rooftop terraces but not adequately overlooked.
5. To provide high quality, attractive and useable private spaces.	Private outdoor spaces on the rear elevation would overlook existing dwellings and private open spaces due to insufficient separation distances of 3m between opposing terraces/balconies. Concerns are also set out below regarding a lack of dual aspect units.
6. To promote mix of use and diversity of activities.	The proposed development would be mono-use for residential purposes only and would result in a contraction of uses on the site as currently both commercial and residential uses are provided.
7. To ensure high quality and environmentally sustainable buildings	Similar to above, there is an insufficient number of dual aspect units proposed. Flooding has been appropriately considered within the application. Surface water management is proposed via a blue/green roof however I note a further information request from the Drainage Department regarding this element. A sustainability report/energy statement is received with the application.
8. To secure sustainable density, intensity at locations of high accessibility.	The site is situated close to a high-quality public transport corridor and has eliminated all car parking proposals on the site. Adequate cycle parking is proposed.
9. To protect historic environments from insensitive development.	The design and layout of the proposed development has failed to adequately address the setting and character of adjoining protected structures.

10.To ensure appropriate management and maintenance.	A management plan is not received with the application.
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7.3.6. In my view, the proposed development does not comply with the performance criteria listed above from Table 3 of Appendix 3 of the CDP and therefore the higher density as proposed is not justified or considered appropriate in my opinion for the site.

7.3.7. Further, the Compact Settlement Guidelines were published following adoption of the CDP and table 3.1 sets out a range of acceptable densities depending on the character of the area. The appeal suggests that Harolds Cross is categorised as ‘City – Urban Neighbourhood’ which I agree with, based on its highly accessible location with good access to employment, education and institutional uses as well as public transport. Table 3.1 states that densities in this area type should be 50-250 dph (dwellings per hectare – same unit of assessment as unit/ha).

7.3.8. The appeal outlines the following text from Section 3.2.1 of the Compact Settlement Guidelines

“Flexibility is offered so that planning authorities can operate a plan-led approach and take the circumstances of a plan area or an individual site into account as part of the decision making processes...”

7.3.9. The appeal suggests that the characteristics of the site including its urban infill nature, public transport connectivity and serviced land character, as well as general policy emphasis on compact settlements lead to the conclusion that flexibility should be applied in this case and the density deemed acceptable.

7.3.10. I disagree with this interpretation however. I consider the above statement regarding flexibility is to provide flexibility within the stated density ranges outlined in table 3.1. In other words, I consider that the flexibility relates to the large range of design options afforded within 50-250 dph. The provision of a scheme with 341 dph is far outside of these parameters, and even the 100-300dph parameters for Dublin city centre.

7.3.11. Section 3.3.6 of the Guidelines states:

“There is a presumption in these Guidelines against very high densities that exceed 300 dph (net) on a piecemeal basis. Densities that exceed 300 dph (net) are open for consideration on a plan-led basis only and where the opportunity for densities and building heights that are greater than prevailing densities and building height is identified in a relevant statutory plan.”

7.3.12. I see no evidence in the CDP to indicate that a density of this type, in the Harolds Cross area, is plan led. Indeed the paragraphs and assessment I have outlined above regarding density guidance from the CDP and Appendix 3 confirm this while I have also highlighted how the prevailing density is much lower. In this regard, I agree with refusal reason no. 4 that the proposed density is excessive and inappropriate.

7.4. Design, Layout and Height

7.4.1. The Design Report received with the original application states that

“the design concept focuses on delivering a contemporary façade that enhances the streetscape characters. The building’s mass is broken up both vertically and horizontally through façade articulation, movement and materiality.”

7.4.2. The report provides an assessment of the proposal at the scale of the relevant city/town, scale of the district/neighbourhood/street and scale of the site/building. It considers the design integrates harmoniously with the natural and built environments.

7.4.3. Two of the four refusal reasons relate to design and scale. Reason no. 1 referred to an inappropriate height, scale, massing and proximity of the proposal adjacent to multiple protected structures, considered it overly dominant and that it *would not conserve or enhance the special architectural character of the setting of the Protected Structures at Number 201 Harold’s Cross Road and properties on Leinster Road, their setting and streetscape*. Reason no. 3 referred to the footprint of the building along the rear boundary wall of 199a-201 Harolds Cross as well as proposed windows on this boundary across six floors and considered the design in this regard would be *an overbearing and incongruous form of development, and would impact on the development potential of this site due to the location of the*

windows. It also considered the development would seriously injure the residential amenities of this property.

- 7.4.4. The original proposal comprised a part three, five and six storey structure in much the same layout as the revised proposal as described above, only with two additional units at the east. The proposed development, following revisions as part of the appeal, comprises a three, four, five and six storey structure. Elevation drawings received with the appeal clearly illustrate the changes including a reduced bulk and massing. I consider that the revised proposal does go some way towards improving the transition between existing and proposed building heights however I consider it is still insufficient to successfully integrate with the streetscape and would detract from the setting and special character of the protected structures due to the scale and massing of the proposal.
- 7.4.5. The proposed fifth floor/sixth storey which comprises the stairwell and liftshaft providing access to the rooftop terrace would be set back from the front elevation which helps to reduce bulk, however I consider that the scale and bulk of the five stories beneath would be overbearing and dominant. In isolation of scale issues, I consider the front elevation to be well thought through in terms of materiality, form and variation in façade depths and would present an attractive addition to the streetscape. In this regard there may be some merit to omitting the fifth and sixth floors on the revised scheme which would reduce the bulk and massing effect, and also aid with addressing density matters. On balance however I consider this would be piecemeal design by fault, rather than a holistic approach and do not consider the remaining or resulting built form to be without fault either and therefore do not recommend this approach.
- 7.4.6. In its current proposed form, I consider there is insufficient separation proposed between the five and six storey elements and 199a-201 Harolds Cross. I also consider that the southern and eastern elevations have insufficient variation to address their dominance and would be visually dominant and intrusive to the residential amenity of the adjoining properties on Leinster Road and Leinster Place, as well as affecting the setting and character of the protected structures on Leinster Road.

7.4.7. Appendix 3 of the CDP sets out area types and given the functional area of Dublin City Council and the range of character areas therein, I consider the site falls within the category of 'outer city (suburbs)' area based on its location outside of the canal ring. It states that in these areas,

'heights of 3 to 4 storeys will be promoted as the minimum. Greater heights will be considered on a case by case basis, having regard in particular to the prevailing site context and character, physical and social infrastructure capacity, public transport capacity and compliance with all of the performance criteria set out in Table 3.'

7.4.8. An assessment of the performance criteria set out in Table 3 is provided already and demonstrates how the proposed development does not comply with the required CDP criteria to provide a taller building in this location. I have also outlined the prevailing building heights in the area as well as highlighting taller structures and conclude that the proposed development would be much taller than the surrounding prevailing building heights on all adjacent land and would not address the character and setting of the built heritage surrounding the site. I also consider that the development does not comply with the Urban Development and Building Heights Guidelines for Planning Authorities for permitting taller buildings due to non-compliance with very similar criteria as that set out in Table 3 of Appendix 3 of the CDP.

7.4.9. In terms of fenestration, reason for refusal no. 3 states:

Having regard to the footprint of the block along the rear boundary wall of the adjoining property at number 199A-201 Harold's Cross Road, which is a Protected Structure, and the location of a number of high level windows built directly onto the boundary with this site, over six floors, it is considered that the proposed development would result in an overbearing and incongruous form of development, and would impact on the development potential of this site due to the location of the windows.

7.4.10. The issue regarding the placement of these high-level windows on the boundary of the site with 199a-201 Harolds Cross is not addressed in the appeal and such windows are still proposed across four floors. Further, I am concerned that the high level windows on the ground and first floors serving proposed unit nos. 1 and 3 are

not even feasible to install due to the presence of a recently constructed two storey extension to the rear of 199a/201. This wall is approximately 6m in height and would therefore obscure some of the high level windows proposed to unit no.1 and 3. The application drawings do not take account of this extension. In my view, the proposed development did not take into account the proposed and permitted extensions to 199a-201 which has been redeveloped. The order to grant permission for the redevelopment of 199a-201 was signed in August 2019 and the subject planning application lodged in October 2024.

7.4.11. Lastly in terms of layout, the four-storey block to the rear locates private open space balconies on the rear eastern elevation with a 3m separation distance to the new infill units at the rear of the site. These units have similar terraces and balconies facing south but with open sides which would be very close to the proposed balconies. This layout is inappropriate in my opinion due to a lack of privacy and impact to residential amenity in that regard, but would also be visually overbearing when viewed from the private open spaces due to a lack of appropriate separation between the side elevations of the respective structures.

7.4.12. Planning permission should be refused in my opinion based on the above reasons regarding non-compliance with policy and an inappropriate scale, massing and dominance of the proposed development which would detract from the streetscape and adjacent protected structures as considered further later, and negatively impact the visual amenity of existing residents.

7.5. Quantitative Standards

Site Coverage and Plot Ratio

7.5.1. Table 2 of Appendix 3 of the CDP sets out indicative site coverage rates and recommends 60-90% for central areas and 45-60% for outer employment and residential areas. I consider the characteristics and context of the site, removed from the city centre, puts it in the category of the outer employment and residential area. The site coverage of both the original and revised development put forward with this appeal is 72% as the footprint of the proposal did not change. This exceeds the recommended rate for such outer employment and residential areas, and in fact exceeds the threshold for all area types listed in table 2 except for the 'central area'.

7.5.2. Table 2 of Appendix 3 also sets out indicative plot ratios for the same area types. For the outer employment and residential area type, it states that a plot ratio of 1.0-2.5 is appropriate. The plot ratio as proposed with the original application was 3.37 which I consider is excessive and demonstrates overdevelopment. The revised plot area, following removal of the two units, is 2.82 which is also outside of the permitted range.

7.5.3. Exceptions are provided and Appendix 3 states that higher plot ratio and site coverage may be provided in certain circumstances such as:

- *Adjoining major public transport 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 significant institution/employers such as hospitals.*

7.5.4. The site is situated on a public transport corridor but does not propose a mix of residential and commercial uses, it does not maintain the existing streetscape profile, would not facilitate any strategic role and in my view simply does not meet the criteria for any of these exceptions.

Internal Residential Amenity

7.5.5. A housing quality assessment is received with the application outlining how internal floorspaces, room width, provision of storage and open space meet all the requirements set out in Section 28 Guidelines for Planning Authorities: Design Standards for New Apartments, 2023.

7.5.6. In terms of aspect, SPPR4 of the Apartment Guidelines requires at least 33% of units to be dual aspect in central and/or accessible urban locations while Section 15.9.3 of the CDP encourages, but does not strictly require, a higher threshold over 50%. It does state however that in *'the outer city (beyond the canal ring) and within the SDRA's, schemes with a minimum of 33% dual aspects units will only be considered in exceptional circumstances.'* It also provides illustrative examples in

figures 15.2, 15.3 and 15.4 of what it considers to constitute dual aspect which clearly identifies that narrow side windows onto balconies/terraces do not qualify as a second elevation in terms of aspect.

- 7.5.7. I note the Design Report provides a table outlining aspect ratios and that it considers unit nos. 4 and 8 of the revised proposal to be dual aspect, however I disagree. The side window to the balcony dismisses its inclusion as dual aspect in the same way as unit nos. 5 and 9 are excluded from the Applicants own assessment. Therefore, the only remaining window to be considered in units 2 and 8 to consider its categorisation as dual aspect is that serving bedroom no. 1 in each unit which faces into a lightwell. I do not consider that this window constitutes a second aspect as it faces south, the same as all other windows in the unit. In my view, the proposed development therefore proposes a total of 4no. dual aspect units, 3no. of which are dual aspect only by virtue of the proposed high-level windows along the northern boundary wall. As outlined previously however, I am concerned about the feasibility of installing some of those windows.
- 7.5.8. For 15no. units, the minimum of 33% would require 5no. units and therefore the proposal does not meet the requirements of Section 15.9.3 of the CDP. The Board should note that this is a new issue which was not raised in the reasons for refusal. The Board will also note that the Apartment Guidelines provide for derogations on a case-by-case basis subject to overall design quality and as outlined previously I have concerns regarding the general design, layout, height and density of the proposal and therefore consider the lack of dual aspect windows in this case is not acceptable.
- 7.5.9. The Design Report also outlines internal daylight levels achievable for each unit and I note there is a 97% success rate across the scheme, with only one window noted to fall below the recommended threshold. I consider this to be acceptable given the constrained infill nature of the site and its proximity to public transport.
- 7.5.10. Some of the observations raise the issue of poor internal amenity due to compromised room widths. I note that each double bedroom provides the minimum 2.8m width required under the apartment guidelines, but not for the full room. For example in the revised proposal put forward with the appeal:

- Unit nos. 1, 3, 7 and 11 are 2-bed 4-person units and therefore the second double bedroom should have a width of 2.8m across a minimum floor area of 11.4m². The 14.3m² proposal exceeds the minimum requirement of 11.4m² however 5m² of this has a reduced width of only 1.9m.
- Unit nos. 6, 10, 13 and 15 are 1-bed units requiring a minimum of 11.4m². In each case a 15.1m² room is provided however only 7.8m² of it has the minimum width of 2.8m.
- Regarding room widths for living/dining areas, which I note excludes kitchen spaces, the minimum width for 2-bed units is 3.6m however the living/dining space for unit nos. 1, 3, 7 and 11 is 3.1m at its widest. The guidelines do provide for flexibility of up to 5% subject to compliance with the overall minimum required floor area however removing 5% from 3.6m would provide a width of 3.42m which is still not achieved in this case.

7.5.11. It is clear therefore that minimum room widths are not provided in accordance with the guidelines. However, in each of the above cases the minimum required floor area is greatly exceeded for the entire unit and I am therefore satisfied that overall there would be an acceptable degree of internal residential amenity.

Public Open Space

7.5.12. No public open space is provided however references are made in the appeal to making a financial contribution in lieu of same as provided for under the Dublin City Council Development Contribution Scheme 2023-2026. I also note the sites proximity to Harolds Cross Park which is situated 75m northwest of the site and therefore consider the derogation to be acceptable. Two areas of communal open space are proposed comprising 72.9m² on the third floor and 115.6m² on the fifth floor. The CDP states that the rate required shall be as per the apartment guidelines, which in turn depends on the number and type of unit proposed. In the case of the original proposal of 17no. units 101m² of communal open space was required and in the revised proposal of 15no. units 80m² would be required. Sufficient communal open space is therefore proposed. The rooftop space is not overlooked by any units however the lower area is overlooked by 2no. bedroom windows from unit no.11 as well as from the stair shaft. A landscaping plan is not received however this could be conditioned to ensure high quality landscaping is proposed.

- 7.5.13. The two spaces benefit from a dual or triple aspect and therefore would have good quality natural light all year making them attractive spaces, depending on the quality of landscaping and finishes. I consider there are opportunities to provide more overlooking to the third-floor area, perhaps from additional northern elevation windows on the studio units which may also go some way to address the dual aspect issue mentioned previously however regard should also be had to the availability of internal wall space for storage and furniture etc.

Car and Cycle Parking

- 7.5.14. No car parking is proposed however I consider this is acceptable given the proximity of the site to high quality urban transport. Provision for this is made in Appendix 5 to the CDP as the site is situated within zone 2 of the city's car parking zones and has a number of bus stops closeby. This is also supported by SPPR 3 of the Compact Settlement Guidelines. I note the Sustainability Report/Energy Statement says electric car charging points will be installed throughout the development however I consider this is a typographical error.
- 7.5.15. 36no. bicycle parking positions are proposed within a secure and covered area which complies with the requirements of the CDP.

7.6. Built Heritage

- 7.6.1. I note the contents of the Local Authority's Conservation Officer which stated the proposed development would have a seriously injurious impact on the character of the streetscape and the immediate setting of the neighbouring protected structure, and that the demolition works to no. 203 may also negatively impact the fabric of the Protected Structure at no. 201 as both structures are physically connected. I also note references to Section 11.5.2 of the CDP which intends to designate Harolds Cross as an Architectural Conservation Area however no designation has occurred to date.
- 7.6.2. Policy BHA2 of the CDP seeks to conserve and enhance protected structures and their curtilage through a range of measures including (b) to protect structures included on the RPS from any works that would negatively impact their special character and appearance and (d) Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively

sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.

- 7.6.3. As outlined previously, I consider the scale and massing of the proposed development to be inappropriate both in terms of general visual impact to the streetscape but also due to the impact to the setting and character of adjoining protected structures. I disagree with conclusions drawn in the AHIA which submits that the proposed development would have a neutral impact on adjoining protected structures and a positive impact on the streetscape. In my opinion the revised design does help to reduce the bulk and massing effect of the proposal however it is simply not sufficient to eliminate negative impacts due to the scale of the proposed design together with its proximity to 199a-201. I consider the design is overbearing and would detract from the setting of this protected structure.
- 7.6.4. To the south, I also consider that the six-storey proposal is overbearing with insufficient context or transition to provide that height in such close proximity to the dwellings on Leinster Road. In my opinion, the increased height on this southern side of the site, together with the proposed brick elevation and massing effect of one large block results in an overbearing design which would detract also from the character and setting of those protected structures. For clarity, I do consider the extruding brick to be an attractive external finish and appropriate solution to break up the windowless façade, however I consider it to be insufficient to provide enough visual interest due to the scale of that façade.
- 7.6.5. I therefore recommend that reason for refusal no. 1 is upheld due to negative impacts to the built heritage of the area.

7.7. Impact to adjoining Residential Amenity

- 7.7.1. Many of the observations raise a concern regarding the impact of the proposed development on adjoining residential amenity. Topics raised include noise from the communal amenity area, light overspill, overshadowing and overlooking.
- 7.7.2. In terms of noise, I consider it unlikely that significant noise from the communal open space would occur simply due to its communal nature. A curfew or restricted access to the terraces could be imposed by a management company or homeowners

association if complaints do arise however, as I consider the matter unlikely to arise in the first instance, I do not recommend attaching any such condition at this stage.

- 7.7.3. In terms of light overspill or impacts due to the introduction of artificial lighting, in my view any domestic lighting in the proposed units is unlikely to be bright or strong enough to impact adjoining residential amenity, or be out of character with this urban location. No external lighting is proposed however any such proposals should be included in the landscaping drawings to ensure there is no overspill and in the event of a grant of permission, a condition should be included accordingly.
- 7.7.4. With regard to overshadowing, no such assessment was received with the application or issues raised in the Local Authority assessment. I am concerned that there may be overshadowing impacts to adjacent properties to the north and east due to the proximity and height of the structure to adjoining dwellings. There are windows on the southern elevation of no. 199a which would be situated 12m from the northern four storey block of the proposed development. Similarly at the east while there are no known windows positioned on the western facades of the new infill units to the rear of the site, the private open spaces of the new infill units include a ground floor open space situated 3m from the rear elevation of the proposed four-storey block. In the absence of a detailed Sunlight and Daylight Assessment for the adjoining properties I have significant concerns regarding the future residential amenity of those existing dwellings and their areas of communal and private open space.
- 7.7.5. For similar reasons I am concerned about overlooking and the impact to residential amenity from the balconies of units nos. 1, 3, 7 and 11 to the private open space of the new infill units as outlined previously under the heading of design, layout and height. The proposed units and balconies in question are positioned on the rear eastern elevation and would be situated 3m from the ground floor open space of the new infill units and 9m to first and second floor terraces/balconies. In each case, the principle view from the proposed balconies would be directly east towards the existing private open spaces, which in turn have principle views south. I consider this separation distance would be unacceptable to maintain adequate levels of residential amenity and that mitigation measures such as opaque glass etc would be inappropriate to future occupants of the proposed units due to subsequent impacts to their aspect and residential amenity.

- 7.7.6. Permission should be refused on the basis of non-compliance with SPPR1 of the Compact Settlement Guidelines which requires a minimum 16m separation between windows serving habitable rooms above ground floor and this is a new issue to be considered by the Board. SPPR1 specifies that *separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces*. In this case however no such mitigation is proposed and therefore the private amenity spaces of the new infill units would be significantly compromised due to the poor relationship between existing and proposed buildings.

7.8. Construction Phase

- 7.8.1. The Conservation Officer raises concerns regarding impacts to the structural integrity of no. 205 during the construction phase as it was traditionally built and originally formed one structure with no. 203.
- 7.8.2. An Outline Construction Management Plan (CMP) is received which states that a demolition plan will be prepared to protect the structural integrity of the building and will include pre-demolition surveys to inform construction methodologies and work sequencing regarding impacts to the adjacent protected structure. It provides high level methodologies including demolition by hand or using handheld tools at sensitive locations and utilising vibration monitoring with parameters set out to inform if work may continue. In my view this is an appropriate response but that such methodologies should be agreed in advance with the Local Authority following preparation of the surveys.
- 7.8.3. The Transport Department report requested a revised CMP to address 'serious concerns' about construction access and deliveries e.g. how to facilitate deliveries adjacent a segregated cycle path without obstructing it or the footpath. The urban site is constrained in terms of construction access and availability of turning space or storage onsite however it is not unique in this nature and subject to management measures being agreed prior to the commencement of development, then it can be regarded as acceptable.

- 7.8.4. The CMP states there are no trees on the site which require hoarding however there are large and mature trees situated on adjacent property to the south which likely have roots extending into the site which should be investigated and protected.
- 7.8.5. In the event of a grant of permission I recommend a revised CMP is agreed prior to the commencement of development which should include significant additional information including the pre-demolition surveys and proposed methodologies as well as addressing concerns regarding the structural integrity of no. 203. It should also include, in my opinion, measures to address amenity and business continuity measures for no. 203.
- 7.8.6. Lastly, a query is raised in the observations regarding the structural integrity of new boundary walls and the lightwells. I consider this is a matter for compliance with building regulations and outside the scope of this appeal.

7.9. Other Matters

- 7.9.1. The observations raise a variety of other matters which I intend to address here as most are de minimis or else already addressed in the application.
- I do not consider that smoke from existing open fires in the dwellings on Leinster Road and Leinster Place is likely to be generated to such an extent as to significantly impact on human health or amenities of occupants of the new units. This is based on the requirement for smokeless fuels in this region as well as an increased awareness of energy efficiency and climate change concerns which is reducing reliance on fossil fuels.
 - No vehicular access is proposed to the site following construction. Pedestrian access would still be achievable from the roadside. No concerns in this regard are raised in the Local Authority Transportation report.
 - The Design Report states that bins will be taken directly from the bin enclosure and returned through a commercial operation and management system. Given the scale of the proposed development I do not consider there is potential for generation of significant waste issues. In the event of a grant of permission however I recommend that a condition is attached to clarify exactly how waste will be collected and managed within the complex.

- A Site-Specific Flood Risk Assessment was received with the original application which concludes that the development is situated outside of flood zones A and B and that there would be no significant increase in the risk of flooding either within or downstream of the site. Some of the objections raise the issue of flooding, however I note how the majority of the site currently comprises hard surfaces. In the absence of any challenging scientific expert evidence and having regard to the Local Authority's Drainage Division report which does not make any remarks regarding the adequacy of the Flood Risk Assessment, I accept the conclusions drawn in the Assessment and consider the matter addressed.
- I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.
- The observations contend that high level windows on the northern elevation of the proposed development would still negatively impact the future development potential of 199a-201 Harolds Cross which I agree with, as well as again outlining that 199a-201 has already been redeveloped in such a manner which precludes the feasibility of some of the proposed windows.
- I disagree with the suggestion that there is no need for the development as there is a well-documented housing shortage in the state over the previous number of years. I consider there are sufficient infrastructure resources and amenities in the area including education and religious facilities, public open space and public transport options to support the principle of providing housing on the site.
- Concerns are raised that the development would not be finished however no evidence is submitted to support this. In the event that the development is commenced but unfinished when the permission expires, the remit lies with the Local Authority to pursue enforcement action if deemed appropriate.
- A concern is raised regarding the proposed tenancy type however the development description does not make any references to short term letting. Any such proposal would require a separate grant of planning permission.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.1.1. The site is situated 4.8km west of South Dublin Bay Special Area of Conservation as well as South Dublin Bay and River Tolka Estuary Special Protection Area.
- 8.2. The proposed development comprises demolition of existing commercial and residential structures and construction of 17no. apartments ranging from 3-6 stories in one block.
- 8.3. No nature conservation concerns were raised in the planning appeal.
- 8.4. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- 8.5. The small scale and domestic nature of the works in a serviced urban area,
- 8.6. The distance from the nearest European site and lack of connections, and
- 8.7. Taking into account screening report/determination by Dublin City Council,
- 8.8. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.9. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

- 9.1. In undertaking this assessment I have had regard to overarching principles and policy emphasis on compact settlements and increasing the density of residential developments on brownfield land as well as the urban location of the site adjacent to high quality public transport and open space. However, the design and layout of the proposed development in my opinion breaches too many quantitative and qualitative standards to provide a high quality of residential amenity for future occupants. The proposed design would, in my opinion, significantly impact the residential amenity of

existing residents adjacent the site, would impact the character and setting of adjoining protected structures, detract from the streetscape and impact the future development potential of adjoining properties. I therefore recommend that planning permission be refused for the following reasons:

1. The proposed development provides a density contrary to the density range requirements set out in Appendix 3 of the Dublin City Development Plan (2022-2028) and also contrary to Table 3.1 of the Sustainable and Compact Settlements Guidelines for Planning Authorities, 2024. It also proposes a plot ratio and site coverage rate contrary to the recommendations set out in Appendix 3. Further, having regard to the height, scale, massing and proximity of the proposed development to existing dwellings adjacent the site as well as the prevailing height, density and character of the area, it is considered that the proposed development would be overly dominant and would detract from the streetscape, seriously injuring the visual and residential amenity of existing residents. It is therefore considered that the proposed development would result in overdevelopment of this site, providing a significantly excessive density, plot ratio, site coverage, scale and height contrary to National and Local Policy Objectives and would seriously injure the amenities of properties in the area. The proposed development would therefore not comply with the criteria set out in Appendix 3 of the Dublin City Development Plan (2022-2028) and the Urban Development and Building Heights Guidelines for Planning Authorities to permit taller buildings on the site and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the height, scale, massing and proximity of the proposed development to the Protected Structure at Number 199A-201 Harold's Cross Road, and also to rear gardens of a number of properties on Leinster Road, which are also Protected Structures, it is considered that the proposed development would be overly dominant and not integrate well with surrounding development, would not conserve or enhance the special architectural character or the setting of the Protected Structures at Number 199a-201 Harold's Cross Road and properties on Leinster Road, their setting and the streetscape. The proposed development would contravene Policies

BHA2 (a), (b), (d), (e), (h) and BHA6 of the Dublin City Development Plan (2022-2028), would not comply with the criteria set out in Appendix 3 of the Dublin City Development Plan (2022-2028) or the Urban Development and Building Heights Guidelines for Planning Authorities to permit taller buildings on the site and would be contrary to the proper planning and sustainable development of the area.

3. The proposed development provides 4no. dual aspect units which does not meet the requirements of SPPR4 of the Sustainable Urban Housing: Design Standards for New Apartments or Section 15.9.3 of the Dublin City Development Plan 2022-2028. Further, the location of balconies on the eastern elevation within 3-9m of private open spaces associated with existing units situated to the east is considered to represent a poor-quality layout detracting from the residential amenity of future residents and would not comply with SPPR 1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities. The proposed development therefore would contravene Objective QHSN36 of the Dublin City Development Plan 2022-2028 which seeks to provide high quality apartments with suitable levels of amenity, and would be contrary to the proper planning and sustainable development of the area.

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.

Sarah O'Mahony
Planning Inspector

08th May 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	321531-24		
Proposed Development Summary	Demolition of existing structures and construction of 17no. apartments.		
Development Address	203 & 207 Harolds Cross Road, Dublin 6W.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Class 10 (b)(i) Construction of more than 500 dwelling units. Class 10 (b)(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			

No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Class 10(b)(i) Threshold = 500 units Proposal = 1 unit	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321531-24
Proposed Development Summary	Demolition of existing structures and construction of 17no. apartments.
Development Address	203 & 207 Harolds Cross Road, Dublin 6W.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<p>The urban site is serviced and its size is not exceptional in the context of the prevailing plot size in the area.</p> <p>A short-term construction phase would be required and the development would not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance due to its scale. The development, by virtue of its type and nature, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. Its operation presents no significant risks to human health.</p> <p>The size and scale of the proposed development is much bigger in terms of height compared to surrounding development, but not significantly or exceptionally so.</p>
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved	<p>The development is situated in an urban area on a site facing the street and situated adjacent to existing residential properties which is not exceptional in the context of surrounding development.</p>

<p>land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>There are a number of protected structures situated adjacent to the site including one immediately to the north which would be significantly impacted as outlined in the assessment above. The localised impacts however would affect the setting and character of the protected structure and not directly impact the structure itself.</p> <p>The development is not likely to have any cumulative impacts or significant cumulative impacts with other existing or permitted projects.</p> <p>The development is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan.</p>
<p>Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the nature of the proposed development and works constituting demolition of existing two storey buildings and construction of 17no. dwellings on serviced land, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>
<p>Conclusion</p>	
<p>Likelihood of Significant Effects</p>	<p>Conclusion in respect of EIA</p>

There is no real likelihood of significant effects on the environment.	EIA is not required.
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Inspector:

Date: