



An
Coimisiún
Pleanála

Inspector's Report

ABP-322636-25

Development	Demolition of buildings and construction of residential building containing a total of 26 No. apartments all with associated site works, bicycle store, landscaping and services.
Location	174-180 Harolds Cross, Terenure, Dublin 6W.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	WEB 1481/25
Applicant(s)	Brendan McGowan.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Brendan McGowan.
Observer(s)	Paula Russell and Michael Roche. Harolds Cross Village Community Co.

Barry Roche.

Philip O'Reilly.

Mary-Jo Biggs.

Date of Site Inspection

31st August 2025.

Inspector

Kathy Tuck.

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1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of c. 0.091sq.m, is situated south of Dublin city centre in the Harolds Cross area, c.115m east of Mount Jerome cemetery. The site currently comprises 2 no. two-storey commercial units (174 and 175 Harolds Cross Road) which includes McGowans Public House and a restaurant facility. In addition, the site includes 2 no. two-storey residential units (nos. 178 and 180 Harolds Cross Road).
- 1.2. No. 180 and No. 178 Harolds Cross have been separated into multi-unit dwellings. The western elevation of the subject site addresses the R817 Kimmage Road Lower while the northern and eastern boundary addresses the R137 Harolds Cross Road.
- 1.3. The site also directly opposes Harolds Cross Park and is bounded to southwest by No. 4 Kimmage Road Lower and to the south by 1 Shamrock Villas.

2.0 Proposed Development

- 2.1. Planning Permission is sought for development which comprised the following:
 - Demolition of existing part 1 and 2-storey buildings including basement on site which is given as having a stated area of c.1,035.61sq.m;
 - Construction of a part 3,4, and 5 -storey residential building, containing a total of 26 apartments comprising of:
 - 5 No. Studio Apartment,
 - 8 No. 1-Bed Apartments,
 - 9 No. 2-Bed Apartments, and
 - 4 No. 3-Bed Apartments
 - The ground floor will comprise of the entrance hall, ESB sub-station, switch room, access to the communal open space, a bin store, 56 no. bicycle parking spaces, 1 no. bed sit unit, 3 no. 1 bed units, 1 no. 2 bed unit and 1 no. 3 bed units and the lift core.
 - The 1st and 2nd floor provide for 6 units each.
 - The 3rd floor provides for 5 units and an area of communal open space.

- The 4th floor provides for 4 units and an area of communal open space.
- 2.2. The building is stepped in nature and finished with a maximum ridge level of 16.5m which reduces to c.13.2m at 4th floor level and further to c.10.45m at 3rd floor along the south-west corner of the proposed building.
- 2.3. Material finishes primarily comprise a mix of red and muted brick tones on all elevations. The ground floor elevation is indicated as being finished with a cream plaster with plaster grooves. The western elevation includes for a ground to roof glazed feature which provides as the main access to the proposed building. Zinc/metal cladding is also proposed along the top floor of the building and framing some opes along the western elevation.
- 2.4. The following documentation was received with the application along with standard drawings:
- Design Statement.
 - Housing Schedule.
 - Housing Quality Assessment.
 - Architectural and Built Heritage Assessment.
 - Sustainability Report/Energy Assessment.
 - Engineering Services Report.
 - Site Specific Flood Risk Assessment.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a decision to refuse permission on the 1st May 2025 for the following 2 no. reasons:

- 1) Having regard to the scale, massing and design of the proposed development, the location of windows and balconies in proximity to the rear garden of No. 1 Shamrock Villas and 4 Harold's Cross Road, its location on this prominent site opposite Harold's Cross Park and in close proximity to historic buildings and

Protected Structures, it is considered that the proposed development would seriously injure the residential and visual amenities of the streetscape by reason of overbearing, overdevelopment and overlooking. The proposed development would be contrary to the Sustainable Residential and Compact Settlement Guidelines (2024), the Dublin City Development Plan (2022-2028) and the Urban Development and Building Height Guidelines for Planning Authorities (2018). The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

- 2) The proposed development, by reason of the demolition, without sufficient justification, of existing extant structures which, although not protected, make a positive contribution to the character, appearance and quality of local streetscapes, and the replacement with structures which are of excessive height, scale and massing at a prominent corner location, would seriously detract from the existing character of the area and, therefore, would be contrary to the provisions of the Dublin City Development Plan 2022-2028, Policy BHA6 – Buildings on Historic Maps. Additionally, the proposed development would not conserve nor enhance the special architectural character of the traditional urban village of Harold Cross. 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.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer sets out details of the site location, details of the development as proposed, the zoning objective pertaining to the subject site and relevant planning policy, the relevant planning history, a summary of consultee reports received from both internal and external consultees, a summary of all submissions received and includes for an EIA Screening determination. While reference is made to AA Screening, in terms of the applicant not having submitted a screening report, the Planning Officer did not undertake a screening determination of the proposal.

The assessment considered that while the principle of development would be acceptable the proposal would have to be assessed having regard to the character of

the street and its compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings.

The assessment noted concerns over the provision of communal open space which was considered to be poor, with no direct passive surveillance at the roof terraces. Concern was also raised over issues of overlooking from the communal open space to properties to the east (1 Shamrock Villas).

With regard to built-heritage the assessment notes that Harolds Cross has been prioritised as a future Architectural Conservation Area in the current Dublin City Council Development Plan 2022-2028. The report considered that the applicant did not fully justified the demolition of all buildings on site, which in the opinion of the planning authority add to streetscape value, and in particular numbers 178 and 180 Harold's Cross Road, adjacent to Shamrock Villas. No consideration was given in the scheme to the possible retention and reuse of these structures and incorporating them into a new infill scheme.

With regard to impact on amenity, the Planning Officer considered that the proposed building is overly dominant and overbearing on this restricted corner site and fails to take into account the local character or prevailing scale of the surrounding buildings. It was further considered that it would be out of character with the adjoining buildings and would appear overbearing, which would seriously injure both the residential and visual amenities of properties in the vicinity. Furthermore, the density proposed would not comply with that set out within Appendix 3 of the City Development Plan.

As such, the assessment recommended that permission be refused in line with the decision issued.

3.2.2. Other Technical Reports

Conservation Officer – Report dated the 16th April 2025 recommends that permission be refused. The report concludes that the subject area is located within the Z4 planning zone – urban village. As per DCC Development Plan 2022-2028, Built Environment, "... Development should have regard to the existing urban form, scale and character and be consistent with the built heritage of the area." The proposed design does not adequately take into account the traditional scale of historic buildings within the

receiving environment and has overlooked the significance of the built heritage on the site.

Archaeology Section – Report dated the 10th April 2025 recommends that permission be refused. The report notes the location of the subject site within an area of archaeological interest, within the Recorded Monument of Harold's Cross (RMP DU018-050). The proposed demolition poses a risk to any potential archaeological material within the subject site. Contrary to the stated policies and objectives contained in Chapter 11 of the Dublin City Development Plan 2022-2028, no archaeological assessment was submitted with the current application.

Drainage Section – Report dated the 7th March 2025 seeking further information be submitted as follows:

- The outfall surface water manhole and the outfall pipe from this development should be proposed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0. The outfall manhole should be located within the final site boundary of the development.
- The drainage for the proposed development should be designed on a completely separate foul and surface water system with a combined final connection discharging into Uisce Éireann's combined sewer system with provision of a dead leg in accordance with GDR Cop Type H manhole.
- Details of Blue roof extent and Green roof extent to be clarified as CDP Architecture "Proposed Roof Plan" shows green roof in terrace area while OCSC "proposed Blue roof extents" shows this as Blue roof. CDP Architecture Also shows Bicycle stores and trees in this open space area.
- The use of pre-cast concrete manholes and re-cast concrete gully pots will not be approved by DCC.

Road Section – Report dated the 7th March 2025 seeking further information be submitted as follows:

- Demonstrate that adequate widths of access corridors and adequate space to the front of and between cycle stands is provided, in accordance with the critical dimensions set out in section 6.5 of the Cycle Design Manual, 2023.

- Provide larger cycle parking spaces capable of accommodating non-standard cycle parking equipment (e.g. adapted bikes, cargo bikes, bike trailers) at a rate of 5% of the overall cycle parking provision, in accordance with section 6.5 of the Cycle Design Manual, 2023.
- Provide visitor cycle parking spaces in the form of publicly / communally accessible Sheffield stands.
- Submit a drawing clearly identifying all portion(s) of the development proposed to be taken in charge by the Local Authority.
- Submit a preliminary construction traffic management plan.
- Submit a Mobility Management Plan.

3.3. Prescribed Bodies

3.3.1. National Transport Authority

The submission noted that the Kimmage to City Centre Bus Connects Core Bus Corridor Scheme (ABP Reg. Ref. No. HA29N.317660) is currently with An Bord Pleanála and a part of the scheme runs adjacent to the subject site and includes for new bus infrastructure and traffic management arrangements.

It states further that the NTA are satisfied that the proposed development facilitates the delivery of the Kimmage to City Centre scheme. However to mitigate any conflicts during potential concurrent construction phases, in the event of the approval of the planning application and the Kimmage CBC, the NTA requests that the developer is conditioned to liaise with the NTA before the construction stage commences to coordinate their works with the Kimmage Core Bus Corridor construction stage (if approved).

3.4. Third Party Observations

The Planning Authority received 7 no. third party submissions in relation to the proposed development. Concerns raised can be summarised as follows:

- Proposal does not respect the character of the area, surrounding neighbourhood in terms of the height.

- Proximate to the protected structure.
- Overlooking.
- Overbearing.
- Demolition of building will impact the neighbouring properties.
- Apartments should be available to buy not just rent.
- Recognise the need for compact development but believe that the development in the area should complement and enhance the character of the area and provide high quality residential and mixed use development.
- contravention of the Sustainable Residential and Compact Settlement Guidelines 2024, as development fails to take into consideration the local character, scale and massing of development, the existing grain and architecture, the historical context, the built heritage and the impact on the adjoining residential amenity.
- residential density and plot ratio, the height of the development contravene the Development Plan.

4.0 Planning History

The following history pertains to the subject site:

PA Ref 0326/15: Section 5 application to deem if the painting of a mural and other surface finishes on the wall facing Harold's Cross Road to discourage and prevent the use of the blank wall for racial and obscene graffiti and to make a positive contribution to the streetscape. Deemed to be not exempt.

PA Ref 2565/06 ABP-218473: Permission REFUSED for demolition of existing licensed premises 'The Inn in the Park' and 2 no. two storey adjoining buildings (at 174, 176, 178 & 180, Harold's Cross Road) and the construction of a 3 & 4 storey building over basement comprising: (a) ground floor licensed Premises and 2 no. retail units; (b) 19 Apartments.

PA Ref 1047/05: Planning permission REFUSED at the Inn in the Park (174, 176, 178, 180, Harold's Cross Road) for demolition of existing licensed premises 'The Inn in the Park' and 2 adjoining buildings (at 174, 176, 178 & 180 Harold's Cross Road) and the

construction of a 2, 3 & 4 storey building over basement comprising: (a) ground floor licensed premises and retail unit. (b) 15 no. two bedroom apartments and 6 no. one bedroom apartments (all apartments provided with balconies); (c) 3 Roof terraces; (1 at second floor level to Kimmage Road and internal courtyard, 1 at third floor level to internal courtyard and 1 at third floor level to internal courtyard and Harold's Cross Road); (d) basement car park (providing spaces for 22 Car parking spaces, 22 Bicycle Spaces) and beer cellar (e) entrance ramp off Harold's Cross Road and (f) associated site works at 174, 176, 178 & 180 Harold's Cross Road, Dublin 6.

PA Ref 1689/95 ABP PL29S.097446: Permission REFUSED on appeal for part change of use from residential to public house, construction of new entrance porch, construction of extension at rear and sundry internal alterations.

5.0 Policy Context

5.1. National Planning Policy

5.1.1. National Planning Framework – First Revision (April 2025).

A number of overarching national policy objectives (NPOs) are of relevance, targeting future growth within the country's existing urban structure. NPOs for appropriately located and scaled residential growth include:

National Policy Objective 2: The projected level of population and employment growth in the Eastern and Midland Regional Assembly area will be at least matched by that of the Northern and Western and Southern Regional Assembly areas combined.

National Policy Objective 3: Eastern and Midland Region: approximately 470,000 additional people between 2022 and 2040 (c. 690,000 additional people over 2016-2040) i.e. a population of almost 3 million Northern and Western Region: approximately 150,000 additional people between 2022 and 2040 (c. 210,000 additional people over 2016-2040) i.e. a population of just over 1 million; Southern Region: approximately 330,000 additional people over 2022 levels (c. 450,000 additional people over 2016-2040) i.e. a population of just over 2 million.

National Policy Objective 4: A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.

National Policy Objective 7: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth.

National Policy Objective 8: Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints and ensure compact and sequential patterns of growth.

National Policy Objective 11: Planned growth at a settlement level shall be determined at development plan-making stage and addressed within the objectives of the plan. The consideration of individual development proposals on zoned and serviced development land subject of consenting processes under the Planning and Development Act shall have regard to a broader set of considerations beyond the targets including, in particular, the receiving capacity of the environment.

National Policy Objective 12: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

National Policy Objective 22: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth.

National Policy Objective 43: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

National Policy Objective 45: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration, increased building height and more compact forms of development.

5.2. Regional Policy

5.2.1. Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. The RSES seeks to promote compact urban growth by making better use of under-used land and buildings within the existing built up urban footprint and to drive the delivery of quality housing and employment choice for the Region's citizens. The RSES seeks to build a resilient economic base and promote innovation and entrepreneurship ecosystems that support smart specialisation, cluster development and sustained economic growth.

The followings RPOs are of particular relevance:

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

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

RPO 5.3: Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.

RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the 'Sustainable Residential Development in Urban Areas'. 'Sustainable Urban Housing; Design Standards for New Apartment' Guidelines, and Draft 'Urban Development and Building Heights Guidelines for Planning Authorities'.

RPO 5.5: Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

- Key Principles of the Metropolitan Area Strategic Plan include compact sustainable growth and accelerated housing delivery, integrated Transport and Land Use and alignment of Growth with enabling infrastructure.

5.3. Section 28 Ministerial Guidelines

Having considered the nature of the proposal, I consider that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

5.3.1. Sustainable Residential Development & Compact Settlement Guidelines 2024

The guidelines expand on the higher-level policies of the National Planning Framework (NPF) in relation to the creation of settlements that are compact, attractive, liveable and well-designed. There is a focus on the renewal of settlements and on the interaction between residential density, housing standards and placemaking to support the sustainable and compact growth of settlement.

In accordance with the provisions of Section 34 of the Act when making a decision in relation to an application that includes a residential element or other elements covered by these guidelines, the planning authority is required to have regard to the policies and objectives of the Guidelines and to apply the specific planning policy requirements (SPPRs).

Of relevance to the subject application are the following:

- Residential densities of 100-300dhp for city centre sites within Dublin and Cork

- SPPR1 – separation distances of c.16m between directly opposing first floor windows.
- SPPR2 - Apartments and duplex units shall be required to meet the private and semi-private open space requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2023 (and any subsequent updates). All residential developments are required to make provision for a reasonable quantum of public open space.
- SPPR3: In city centres and urban neighbourhoods of the five cities, defined in Chapter 3 (Table 3.1 and Table 3.2) car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate of car parking provision for residential development at these locations, where such provision is justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling.
- SPPR4: It is a specific planning policy requirement of these Guidelines that all new housing schemes (including mixed-use schemes that include housing) include safe and secure cycle storage facilities to meet the needs of residents and visitors. The following requirements for cycle parking and storage are recommended:
 - i. Quantity – in the case of residential units that do not have ground level open space or have smaller terraces, a general minimum standard of 1 cycle storage space per bedroom should be applied. Visitor cycle parking should also be provided. Any deviation from these standards shall be at the discretion of the planning authority and shall be justified with respect to factors such as location, quality of facilities proposed, flexibility for future enhancement/enlargement, etc. It will be important to make provision for a mix of bicycle parking types including larger/heavier cargo and electric bikes and for individual lockers.
 - ii. Design – cycle storage facilities should be provided in a dedicated facility of permanent construction, within the building footprint or, where not feasible, within an adjacent or adjoining purpose-built

structure of permanent construction. Cycle parking areas shall be designed so that cyclists feel safe. It is best practice that either secure cycle cage/compound or preferably locker facilities are provided.

5.3.2. Urban Development and Building Heights, Guidelines for Planning Authorities (2018).

The Building Heights Guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated, but actively sought out and brought forward by our planning processes, in particular by Local Authorities and An Bord Pleanála. These Guidelines caution that due regard must be given to the locational context and to the availability of public transport services and other associated infrastructure required to underpin sustainable residential communities.

Of particular reference within these guidelines is Section 2.8 which states:

Historic environments can be sensitive to large scale and tall buildings. In that context, Planning Authorities must determine if increased height buildings are an appropriate typology or not in particular settings. An Initial assessment of the existing character and setting of a place will assist in a robust framework for decision-making that will facilitate increases in building height and involve an integrated understanding of place. With regards to large-scale and tall buildings in historic urban areas, an examination of the existing character of a place can assist planning authorities, and others to:

- *establish the sensitivities of a place and its capacity for development or change and;*
- *define opportunities for new development and inform its design.*

5.3.3. Architectural Heritage Protection – Guidelines for Planning Authorities (2011) -

This guidance is a material consideration in the determination of applications and sets out comprehensive guidance for development in conservation areas and affecting protected structures. It promotes the principle of minimum intervention (Para.7.7.1) and emphasises that additions and other interventions to protected structures should

be sympathetic to the earlier structure and of quality in themselves and should not cause damage to the fabric of the structure, whether in the long or short term (7.2.2).

5.3.4. **Sustainable Urban Housing: Design Standards for New Apartments, 2022**

The minimum floor area for one-bedroom apartments is 45m², for two-bedroom apartments it is 73m². Most of proposed apartments in schemes of more than 10 must exceed the minimum by at least 10%. Requirements for individual rooms, for storage and for private amenities space are set out in the appendix to the plan, including a requirement for 3m² storage for one-bedroom apartments, 6m² for two-bedroom apartments and 9m² for three-bedroom apartments. In suburban locations a minimum of 50% of apartments should be dual aspect. Ground level apartments should have floor to ceiling heights of 2.7m.

I note that these apartment guidelines have been superseded by Guidelines introduced in July 2025, the subject application was lodged with the Panning Authority on the 7th March 2025 prior to the adoption of these new guidelines. As per Circular Letter NSP 04/2025 issued by the Department of Housing, Local Government and Heritage, the new guidelines do not apply to applications or appeal which were made on or before the 8th July 2025.

5.3.5. **Other relevant guidance:**

- Delivering Homes, Sustaining Communities (2008) and the accompanying Best Practice Guidelines- Quality Housing for Sustainable Communities.
- Design Manual for Urban Roads and Streets (2013).
- Smarter Travel – A New Transport Policy for Ireland (2009-2020).
- Architectural Heritage Protection Guidelines, Dept. of Arts Heritage and the Gaeltacht (2011).
- The Planning System and Flood Risk Management Guidelines (2009).

5.4. **Climate Action Plan, 2025**

The Plan lays out a roadmap of actions which will ultimately lead us to meeting our national climate objective of pursuing and achieving, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It aligns with the legally binding economy-wide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022. Climate Action Plan 2025

builds upon last years plan by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings and it should be read in conjunction with Climate Action Plan 2024. The Plan provides a roadmap for taking decisive action to halve Ireland's emissions by 2030 and achieve climate neutrality by no later than 2050, as committed to in the Climate Action and Low Carbon Development (Amendment) Act 2021.

5.5. National Biodiversity Action Plan , 2023.

The Nation Biodiversity Plan sets the national biodiversity agenda for the period 2023-2030 and aims to deliver the transformative changes required to the ways in which we value and protect nature. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to “act for nature”. The following objectives are of note:

Objective 1: Adopt a Whole of Government, Whole of Society Approach to Biodiversity.

Objective 2 - Meet Urgent Conservation and Restoration Needs.

Objective 3 - Secure Nature's Contribution to People.

Objective 4 - Enhance the Evidence Base for Action on Biodiversity.

Objective 5 - Strengthen Ireland's Contribution to International Biodiversity Initiatives.

5.6. Dublin City Development Plan 2022-2028

- 5.6.1. The subject site is zoned under objective Z4: To provide for and improve mixed-services facilities.
- 5.6.2. The following sections of the City Plan are considered to be relevant:
- 5.6.3. Chapter 2: Core Strategy guide the spatial direction of future development and regeneration in the city in line with the principles of compact growth. Harolds Cross is identified within table 2-14 which set out the schedule for Local Area Plans and Village Improvement Plans.

5.6.4. Chapter 3: Climate Action contains the Council's policies and objectives for addressing the challenges of climate change through mitigation and adaptation. The relevant policies from this section include:

- CA3: Climate Resilient Settlement Patterns, Urban Forms and Mobility.
- CA6: Retrofitting and Reuse of Existing Buildings.
- CA8: Climate Mitigation Actions in the Built Environment.
- CA9: Climate Adaptation Actions in the Built Environment.
- CA24: Waste Management Plans for Construction and Demolition Projects.
- CA27: Flood Risk Assessment and Adaptation.

5.6.5. Chapter 4: Shape and Structure of the City, sets out the Council's strategy to guide the future sustainable development of the city. The objective is to ensure that growth is directed to, and prioritised in, the right locations to enable continued targeted investment in infrastructure and services and the optimal use of public transport. The relevant policies from this chapter are:

- SC5: Urban Design and Architectural Principles.
- SC10: Urban Density.
- SC11: Compact Growth.
- SC13: Green Infrastructure.
- SC14: Building Height Strategy.
- SC15: Building Height Uses.
- SC16: Building Height Locations.
- SC19: High Quality Architecture.
- SC20: Urban Design.
- SC21: Architectural Design.

5.6.6. Chapter 5: Quality Housing and Sustainable Neighbourhoods, seeks the provision of quality, adaptable homes in sustainable locations that meet the needs of communities and the changing dynamics of the city. The delivery of quality homes and sustainable communities in the compact city is a key issue for citizens and ensuring that Dublin

remains competitive as a place to live and invest in. The relevant policies from this chapter include:

- QHSN6: Urban Consolidation.
- QHSN10: Urban Density.

5.6.7. Chapter 8: Sustainable Movement and Transport, seeks to promote ease of movement within and around the city and an increased shift towards sustainable modes of travel and an increased focus on public realm and healthy placemaking, while tackling congestion and reducing transport related CO2 emissions.

5.6.8. Chapter 9: Sustainable Environmental Infrastructure and Flood Risk, aims to address a broad range of supporting infrastructure and services including water, waste, energy, digital connectivity, and flood risk/surface water management. The relevant policies of this section are:

SI14: Strategic Flood Risk Assessment.

SI15: Site Specific Flood Risk Assessment.

5.6.9. Chapter 11: Built Heritage and Archaeology, recognises that the city's heritage contributes significantly to the collective memory of its communities and to the richness and diversity of its urban fabric. It is key to the city's character, identity and authenticity and is a vital social, cultural, and economic asset for the development of the city. The Development Plan plays a key role in valuing and safeguarding built heritage and archaeology for future generations. The plan guides decision-making through policies and objectives and the implementation of national legislation to conserve, protect and enhance our built heritage and archaeology.

Harolds Cross is listed as a priority ACA project under section 11.5.2.

The relevant policies of this section include:

- BHA2: Development of Protected Structures.
- BHA4: Ministerial Recommendations.
- BHA6: Buildings on Historic Maps

That 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 that it has little or no special interest or merit having regard to the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities (2011).

- BHA9: Conservation Areas.
- BHA10: Demolition in Conservation Areas.
- BHA14: Mews.

5.6.10. Chapter 15: Development Standards contains the Council's Development Management policies and criteria to be considered in the development management process so that development proposals can be assessed, both in terms of how they contribute to the achievement of the core strategy and related policies and objectives. Relevant sections of Chapter 15 include (but are not limited to):

15.4: Key Design Principles.

15.5: Site Characteristics and Design Parameters.

15.6: Green Infrastructure and Landscaping.

15.15.1: Archaeology.

15.15.2: Built Heritage.

15.18: Environmental Management.

5.6.11. Relevant Appendices include

Appendix 3: Achieving Sustainable Growth sets out the height strategy for the city, with criteria for assessing higher buildings and provides indicative standards for density, plot ratio and site coverage.

Appendix 16: Sunlight and Daylight provides direction on the technical approach for daylight and sunlight assessments.

5.7. Natural Heritage Designations

The subject site is not located within or is not adjoining any Natura 2000 Sites. The subject site is located c.4.8km to the west of the South Dublin Bay SAC (Site Code 000210), the South Dublin Bay and River Tolka SPA (Site Code SPA 004024) and the South Dublin Bay pNHA (Site Code pNHA 000210). The site is also situated c.690m to the south of the Grand Canal pNHA (Site Code pNHA 0002104).

6.0 EIA Screening

The development does fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended). However, the scale of the proposed development does not exceed the thresholds set out and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Appendix 1 and Appendix 2 of my report refers.

7.0 The Appeal

7.1. Grounds of Appeal

This is a 1st Party Appeal against the decision of Dublin City Council to refuse permission for the proposed development. The grounds of the appeal can be summarised as follows:

1. Response to Planning Officers Report:

- Proposal is acceptable in principle and supports Development Plan policies around urban consolidation and infill development.
- Report emphasises Dublin City Council's commitment 'to ensuring the delivery of quality homes and sustainable communities in the compact city'.
- Planner's report has considered the proposal to be acceptable in terms of open space and recommends a contribution in lieu.
- Transport & drainage decision did not raise major concerns.

- Planner's concerns largely seem to rest heavily on the opinion of the Conservation Officer.
- Conservation Officer's position that there could potentially be merit in the future if surveyed by the NIAH has no basis in planning policy or reason.
- 'Retain' and 'adapt' the existing buildings would fail to provide a development standard worthy of Development Plan objectives for this area or of national planning objectives for compact growth in these very locations.
- Retain single-storey and two- storey buildings on the Dublin Bus Corridor and within walking distance of Charlemont Luas stop and the city centre runs counter to the proper planning and sustainable development of the area.
- Architectural and Built Heritage Assessment submitted states that 'the architect has designed a bright and lively development of contemporary design, which will fit into the surrounding context'.
- McGowan's pub and associated buildings have no architectural or cultural merit and that the proposal would have a 'positive impact' on the architectural heritage of surrounding streets.
- The National Planning Framework (NPF) and the Metropolitan Area Spatial Plan (MASP) for Dublin support urban consolidation within and close to the existing built-up footprint of the city and suburbs area and metropolitan towns; and to support sustainable urban extension at locations served by public transport. Dublin City Council's own Development Plan supports these policies.
- all minimum apartment standards have been met or exceeded.
- In terms of density, the planner's report only relies on Appendix 3 of the Dublin City Development Plan 2022 - sets out a density range of 60-150 units per hectare for this area, which is outdated given the ever- increasing need to densify low-lying neighbourhoods in central areas. The report fails to adequately address Table 3.1 ('Density Ranges for Dublin') in the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024) which offers more realistic guidance of 250 units per hectare and upwards.

2. Response to reason for refusal no. 1

(a) Residential Amenity

- All future residents will enjoy a high standard of apartment living – well-proportioned units/exceeding minimum standards/61% dual aspect/285sq.m communal open space.
- Shadow analysis submitted shows no new significant harmful effects – only some minor impacts on apartments to the north for a short period of the year.
- Dwelling to south and west have been considered through the design with the introduction of a step down at this end adjoining no.1 Shamrock Villas and no. 4 Harolds Cross.
- Planning Officers assertion that the building would appear overbearing is vague and not evident in the visual impact assessment submitted – shows a natural height transition on a prominent corner.
- Having regard to the urban location and the design evolution it is submitted that the proposal does not cause significant harm to neighbouring amenity to warrant a refusal and is acceptable in planning terms.

(b) Visual Amenity

- Contended that the proposal by virtue of the strengthened building line, improved street appearance and sensitive palette would preserve and enhance the character of the traditional urban village off Harolds Cross and not negatively impact the visual amenity of the area or the setting of the protected structures.
- Development is distinct with a vibrant appearance and clever use of metal panels and coloured bricks that avoids a uniform monolithic appearance – seeks continuity with traditional brick buildings of the city while establishing itself as a bold modern landmark in the views from Kimmage Road Lower.

- Contended that the proposal would comply in particular with Development Plan policies BHA2 (a) (b) (d) (e) (h) and BHA6.
- Architectural design statement demonstrates how the proposal meets the criteria of the Urban Design Manual – respond to its surroundings while being distinct innovative design.
- Strong addition to the urban fabric and vital reinforcement of the building line for the 21st Century.
- Refuted that the development is monolithic – design statement clearly demonstrates the evolution of the building in terms of height, unit typologies and balconies and crafting a vibrant street appearance with a clever use of metal panels. Avoids uniform appearance.
- Building generously set back from the street creating new widened footpaths improving the public realm.

(c) Building Height Guidelines 2018

- 6 Stories is the default height for central and accessible city neighbourhoods – Harolds Cross is a key urban village within walking distance of the city centre and the site is adjacent to a park therefore the optimal location for a variation of the building heights.
- Proposal has avoided being ‘monolithic’ and has successfully integrated the variation of heights with the surrounding streets.
- SPPR 3 of the Building Height guidelines (2018) states that proposals for taller buildings should meet the criteria set out in Section 3.2.
- Contended that the proposal is:
 - well served by public transport.
 - integrate into the character and public realm of the area, as demonstrated in the Architectural Design Statement.
 - positive contribution to place-making, incorporating new public realm on Kimmage Road Lower, using massing and height to achieve the required densities but with good transition in scale and

form to respond to the scale of adjoining developments and create visual interest in the streetscape.

- responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.
- specially designed to be not monolithic and avoids long, uninterrupted walls of building.
- positive contribution to the improvement of legibility through the wider Harold's Cross Road area.
- positively contributes to the mix of uses and building typologies available in the Harold's Cross.
- carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.
- shadow analysis concluding no significant harm.
- An Bord Pleanála should apply their discretion when it comes to shadow impacts in urban areas, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives.

(d) Overdevelopment

- The development produces a gross residential density of 285 units per hectare with a plot ratio of 2.44 and a site coverage is at 72.4%.
- Density level is similar to other permitted apartment schemes in Harold's Cross. For example, the now built 6-storey development at 280-288 Harold's Cross Road has a density of 278 units per hectare and plot ratio of 2.9 (Reg. Ref. 4729/18).
- Planner's report acknowledges the generous communal open space, 61% dual aspect units and all other minimum standards complied with.
- Neither the Council's Transportation Planning Division nor Drainage Division had objections to the provision of 26 no. apartments on this site. It cannot be said that there is an overdevelopment of the site.

- abundance of public transport and active travel options due to the Dublin Bus Corridor and proposed Bus-Connects Corridor on Harold's Cross Road and Luas stops within 1.5km. The city centre is a 20-minute walk away (1.6km).
- Table 3.1 (Density Ranges for Dublin') in the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024) sets out the following:
 - The city urban neighbourhood.....are highly accessible urban locations with good access to employment, education and institutional uses and public transport. It is a policy and objective of these Guidelines that residential densities in the range 50 dph to 250 dph (net) shall generally be applied in urban neighbourhoods of Dublin and Cork.'
- density ranges are applied as guidance only and can be exceeded.
- 'City urban neighbourhood' is a broad term that the guidelines are intentionally open to interpretation at decision-making stage.
- The subject site is located closer to the city centre and is equivalent to Rathmines or Ballsbridge in terms of centrality and densities of over 250 dph can be acceptable - there are no prescribed density limits for Dublin city and each site is assessed on a case by case basis.
- Section 3.2.1 of the compact guidelines state: *'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 prescribed under the Planning and Development Act 2000 (as amended).'*
- Section 3.3.1 of the compact guidelines state: key priorities of MASP areas is to deliver brownfield and infill development at scale at suitable strategic and sustainable development locations within the existing built up footprint of the city and suburbs area or metropolitan towns.

3. Response to reason for refusal no. 2 – Demolition of Existing Structure.

- The red line boundary proposed for demolition have no architectural significance – buildings not protected structures and they are not listed on the National Inventory of Architectural Heritage (NIAH) database. The site is not in any Architectural Conservation Area.
- Policy BHA6 is opaque in its application. An evidence-based approach should be applied on a case-by-case basis in the interests of proper planning and sustainable development - no special architectural protections in place in this immediate area and such streetscapes can be enhanced by modern development.
- Conservation Officer's position that there could potentially be merit in the future if surveyed by the NIAH has no basis in planning policy or reason - Architectural and built heritage report from John Greene, a Grade I Conservation Architect, concludes that the buildings are of no architectural or cultural importance.
- Important to distinguish between old buildings and buildings of intrinsic historic value if we are to pursue compact growth objectives in national and regional planning policy - cannot be said that the architectural significance of the existing buildings outweighs the wider public benefit of infill development and supplying new urban housing in Dublin.
- Contend that the proposal, by virtue of its complementary design and improved building line, would preserve and enhance architectural character of the traditional urban village of Harold Cross and would not negatively impact the visual amenity of the area or the setting of the protected structures - thereby complying in particular with Development Plan policies BHA2 (a), (b), (d), (e), (h) and BHA6.

4. Precedent

The 1st Part appeal sets out the following as precedent to support this development:

1. 146-156 Harold's Cross Road - Reg. Reg. 3779/22 permission granted for 3-4 storey apartment building with 22 apartments granted by DCC.

2. 280-288 Harold's Cross Road - Reg. Ref 4729/18 permission granted for 3-6 storey building.

5. Overall Planning Benefits of the Proposed Development

- Strategic Location and Sustainable Transport: Site located along major public transport corridor - aligns with national planning objectives to concentrate development along public transport routes, reducing car dependency and promoting sustainable mobility. Supports the '15-minute city' concept where residents can access services and the city centre efficiently.
- Housing Need and Efficient Land Use - Proposal makes efficient use of serviced urban land, which is preferable to urban sprawl. The proposed 26 no. apartments would contribute to meeting housing targets while utilising existing infrastructure and services.
- National Planning Framework Alignment - supports key objectives of the National Planning Framework (First Revision — April 2025) including NPO, 7, NPO 8, NPO 9, NPO 13 and NPO 20 which promote compact growth in cities but especially NPO 45, which explicitly seeks to 'increase residential density and building height' in existing settlements.
- Design Response to Context - Taller than neighbouring properties, a 5-storey building represents a moderate scale increase that will create an appropriate transition between traditional suburbs and more intensive urban development. Good design has mitigated impacts through:
 - Setbacks at upper levels
 - High-quality materials sympathetic to local character
 - Careful treatment of the street frontage
 - Thoughtful landscaping and boundary treatments
- Precedent and Evolving Character - Inner suburban areas of Dublin are evolving, with many similar developments approved along transport corridors.

- Urban Design Benefits - development will create positive urban design outcomes by:
 - Strengthening the street edge.
 - Improving passive surveillance.
 - Creating a more defined urban character along the transport corridor.
 - Potentially improving the public realm.
- Policy Support - Recent national and Dublin City Development Plan policies actively encourage this type of development, including:
 - The Urban Development and Building Heights Guidelines (2018)
 - Apartment Guidelines (2023) relaxing previous restrictions
 - Specific objectives for intensification along public transport routes
- Economic Viability - scale proposed represents an efficient use of the site that makes development economically viable while delivering much-needed housing units.

7.2. Planning Authority Response

A response from the Planning Authority was received by the Commission on the 10th June 2025 which requests that the decision made be upheld.

It further states that in the event the Commission decide to overturn the decision and a grant of permission be made the following conditions be included:

- Section 48 development contribution.
- Payment of a bond.
- Contribution in lieu of private open space.
- Social Housing conditions.
- A naming and numbering condition.
- A management condition.

7.3. Observations

The Commission received 5 no. observations on foot of the 1st Party Appeal against the decision of the Planning Authority. The concerns raised in each of the observations have been set out below:

1. Barry Roche.

- Fails to respect the neighbourhood character due to its height.
- Situated only 10m from dwellings – overbearing.
- Reduce current levels of light.
- Unclear how demolition of existing building would be undertaken without disrupting traffic given current sub-standard width of footpaths.
- This route is planning on becoming one of the major bus corridors – demolition will also impact this.
- Demolition will impact local business operators on Shamrock Villas and local households.
- If permitted will block daylight from later afternoon/evening onto Harolds Cross Park (the circle is the most utilised part)- impact flora and fauna in the park.
- Question if an Environmental Impact Report should have been submitted.
- 192 Harolds Cross – permission granted for a 4 storey apartment building and this is evidence of how bad it sticks out against surrounding buildings.
- Proposal is excessive in scale and will be overbearing.
- Noise pollution will be immense.
- Poses risks for pedestrian and cyclist safety.

2. Harolds Cross Village Community Council.

- Reasons for refusal consistent with issues raised in observations submitted.
- Submitted that the grounds of the 1st party appeal do not address the reasons for refusal.

Setting of the Proposed Development

- Policy of Dublin City council is to ensure that protected structures are not compromised in any way by new development – strengthened by Policy BHA2 and Table 3 of Appendix 3 of the City Plan.
- Development will be viewed in the context of Mount Jerome (includes for a cluster of protected structures) – area has a special character that is defined by the alignment of buildings and the established scale and height.
- Proposal will be visually obtrusive to this context and will detract from historic environment.
- Proposal in terms of height, scale, and form will have an adverse effect on the historic setting of the area – request that the decision of the Planning Authority be upheld.

Precedent of previously permitted apartments on Harolds Cross Road.

- Precedent set out by appellant not relevant – the developments permitted along the western side of village green.
- PA Ref 2779/22 for a 3 /4 storey residential building and the reuse of a protected structure is most relevant.
- PA Ref 4735/18 permission granted for 34 no. apartments in 2 no. blocks ranging in height from 5 to 3 storeys in height. The proposal retained the front façade of the building.

Insufficient justification for the demolition of the Historic Structures

- 1st party referenced the architecture and built heritage report and that the buildings are not listed on the NIAH records or within a ACA for the justification of the demolition of the building.
- City Development Plan identifies Harolds Cross as being prioritised as a future ACA – intended that this will be progressed over the development plan period.
- There is evidence of a structure at this location in the 1836-44 1st Edition Ordnance Survey 6 inch map – structures not included on the Record of Protected Structures Policy BHA6 states “*That 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).”

- Built heritage report submitted does not provide sufficient evidence or analysis to determine the significance of the historic structures on site – the assessment should include for more detailed information that identifies the extant historic and modern fabric in order to arrive at a conclusion for demolition.

Residential Amenity of the Proposed Development.

- Applicant contends that the proposal meets the quality standards.
- Two areas of concern relate to the entrance to the apartments and the proposed roof garden.
- Entrance area – entrance to units is shared with the proposed bin store. This should be re-organised so that the bin store is accessible from the courtyard.
- Communal Open Space – open space located at 3rd and 4th floor are not overlooked which undermines the sense of safety and useable space.
- Consideration should be given to the reorganisation of the layout/apartments to provide overlooking of these spaces to enhance passive surveillance, while also protecting the privacy of the neighbouring dwellings.
- Concur with the comments of the Planning Authority with regard to lack of passive surveillance and overlooking of adjoining properties.

Concluding Comments

- Welcome ongoing development and recognise the role that increased development in the village has.

- Believe that the new development should complement and enhance the character of the village.
- Sustainable compact guidelines - New development should respond to the receiving environment in a positive way and should not result in a significant negative impact on character (including historic character), amenity or the natural environment (s. 3.4.2)
- Proposal is visually discordant, detracts from the historic character of Harolds Cross, will diminish overall levels of amenity enjoyed by residents and future residents and does not conform with the proper planning and sustainable development of the area.

3. Paula Russell and Michael Roche.

Building design and its impacts on the character and heritage of its setting.

- Welcome on-going development of the village area and recognise the need for new compact development but consider that this development should complement and enhance the character of the area.
- Page 31 of the Sustainable Residential and Compact Settlement guidelines – *‘New development should respond to the receiving environment in a positive way and should not result in a significant negative impact on character (including historic character), amenity or the natural environment.’*
- Considerations recommended by Compact Guidelines include 3 elements –
 - *the prevailing scale and mass of buildings, urban grain and architectural language*
 - *Historic environments (built and landscape heritage) can be particularly sensitive to change.*
 - *necessary to consider the impact of a proposed development on the amenities of residential properties that are in close proximity to a development site. The key considerations should include privacy, daylight and sunlight, and microclimate.*
- Consider that the proposed development is in contravention to all of the above – fails to adequately take into consideration local character, prevailing

scale and massing, existing urban grain and architectural and historic context.

- Proposal will detract from this context on a prominent site in terms of its height and massing – prominent location at the junction of Harolds Cross Road and Kimmage Road Lower facing Harolds Cross Park.
- Extremely concerned about the impact on the built heritage of Harolds Cross and in particular the negative impacts on nearby protected structures.

Building Design, Height and Form

- The Management Criteria (section 3.2) set out in the Urban Development and Building Height Guidelines indicate that applicants are to demonstrate the development proposals satisfy a number of criteria.
- At the scale of district/neighbourhood street level the guidelines include the following:
 - proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.
 - proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.
- Considered that the proposal will act to the contrary and contend that development fails to respond to existing built environment, is completely over-scaled and make no attempt to integrate with existing context in a cohesive manner.
- Appendix 3 of the Dublin City Development Plan requires any proposal with a significant increased height and density should comply the performance criteria.
- Enhanced density and scale should:
 - Respect/complement existing and surrounding urban structure/character, scale and built heritage.

- Have a positive impact on local community and environment – contribute to healthy placemaking.
 - Create a distinct design and add to enhance quality of design.
- Building immediately adjacent to the proposed development (Kimmage Road Lower and Shamrock Villas) are two storey in height, while the row of attractive terraces opposite the site are single storey.
 - Historic Area with established height of two storey buildings – propose development extending to 5 storeys in height is not in keeping with the established scale and massing.
 - Argue that the northern elevation massing of the building is such that the step-down element is almost imperceptible and that the building reads almost in its entirety as 5 storeys – contend that this scale does not complement the existing area and does not add quality of design.
 - Submit that the development contravenes the guideless and fails to adequately consider the local character, prevailing scale and massing, the existing architectural and urban grain, the historical context the built heritage and the impact on residential amenities.
 - Overall architectural expression of the development lacks character, variety, and richness in expression and detail.
 - Elevation treatment is incongruous in the existing streetscape – north-eastern façade on the approach from Harolds Cross Road toward lower Kimmage Road has a particularly negative impact.
 - Proposal will create a jarring effect in visual terms as it provides a backdrop to the terrace of 2 storey over basement Georgian houses and steps up considerable from the prevailing height - There are no drawings or photomontages which adequately illustrate this impact.

Design of Infill Development

- Proposal fails to consider:

- the existing character of the street.
- the building line or proportions of adjoining buildings.
- Prevailing heights in the area.
- Request permission is refused, and the Commission refuse in line with the 1st reason put forward by DCC.

Impact on Heritage of the Surrounding Area

- Scale and massing of proposed development will have an adverse and negative impact upon the setting of protected structures at the entrance to Mount Jerome – consisting of the Gate Lodge, the gates, piers original railings of Mount Jerome together with the adjacent former Church of Ireland (now Russian Orthodox Church).
- Proposal is visually obtrusive as a background to these Protected Structures and the special character of the environment that this group of building create – the Protected Structures complement each other and are complemented by the existing morphology and scale of the pattern of development.

Proposal will detract from character and setting of the historic environment.

- Proposal is on a prominent site which overlooks the park – forms an incongruous vista approaching from the western and southern side of Harolds Cross Park.
- Note that Harolds Cross is prioritised as a future ACA I the current DCC Development Plan (Section 11.5.2) and that the existing building makes a positive contribution to the streetscape.

Precedent Issues

- Recent precedent has for the most part respected the existing morphology and streetscape – 146-156 Harolds Cross Road (PA Ref 3779/22) permitted the demolition of derelict buildings and construction of 2-3 storeys in height.

- Reference by the Applicant to development at 280-288 Harolds Cross Road where 5 storeys were permitted is not relevant as that site is not within the historical core of Harolds Cross or within the zone of Archaeological interest as the subject site is.
- Evidence of a structure on the appeal site on the 1836-44 1st Edition Ordnance Survey 6 inch map.

Demolition of Buildings of Historic Quality

- 1st Party Appellant has not provided sufficient evidence to override DCC's policy relating to the presumption against the demolition of buildings that appear on historic maps up to and including the Ordnance Survey of Dublin 1847 (Policy BHA6).
- Both the Conservation Office and Archaeologist both refer to Policy BHA6 – contended that built heritage report submitted does not provide for sufficient research or analysis to determine the significance of the historic structures to be demolished & fails to adequately identify possible archaeological significance.
- Built Heritage report should include more detailed information that identifies the extant historic and modern fabric in the existing building in order to substantiate the rationale for demolition – this is set out by the Conservation Officer within their report.
- Planning Officers report notes that the City Archaeologist has stated that archaeological potential of the subject site is considered to be high and that no archaeological assessment was submitted with the application.

Use of Materials

- Design and façade proposed is overly busy with a mix of brick varieties, plasters, renders and cladding – number of setbacks and a deeply overhanging roof on the 5th Storey.
- The design and use of materials result in a treatment that is not in keeping with the simpler palate of materials uses in the surrounding area.

- The balcony treatment on the corner façade is particularly discordant.

Impact on Adjoining Residential Properties

- Overbearing and Overlooking on No. 1 Shamrock Villas and No. 4 Kimmage Road Lower.
- This is also noted within the Planning Officers Report.
- Overshadowing of neighbouring private amenity space – indicated on shadow analysis submitted no. 182 and 184 Harolds Cross Road will have their front garden totally cast in shadow during the month of June.

Residential Amenity of Proposed Development

- 1st party contend that the development is fully compliant with quality standards – contend that this is incorrect.
 - Entrance
 - 2 no. entrances proposed. Second entrance is shared with bin storage which is poorly designed.
 - Treatment of ESB substation and switch room also poorly designed - unclear on drawings and photomontages how the ESB substation and switch room will be treated and has the potential to create an unsightly addition to the streetscape.
 - Poor quality of the treatment of the entrance and these functional areas would detract from the manner in which the proposed building presents itself to the historic terrace on Harolds Cross Road.
 - Communal Open Space
 - Could provide potentially create an unsafe environment for residents.

- 4th Floor area has no provision of passive surveillance becoming upset.
- Communal open space is of poor quality, poorly overlooked, unlikely to provide useable open space.
- Planning Officers report supports these comments.

4. Mary-Jo Bigs.

- Proposal does not respect the character of the Surrounding area – in terms of height.
- Proposal in close proximity to the Russian Orthodox Church and directly opposite single storey cottages and a row of Georgian and Victorian houses dated 1800s – proposal will inevitably dominate the landscape in terms of its scale to the detriment of the existing character.
- Appeal site located at prominent junction where structures are 1 and 2 storey in height – currently the area provides for a sense of space and light as the adjoining park and its mature trees enabled to dominate that area visually enhancing for the public all the beneficial impacts from a protected green space in an urban setting - Proposed development will remove this benefit.
- Location of site is situated on one of the main arteries for traffic in and out of Dublin City Centre – feasibility and public safety elements o proposed scale and demolition and build is questionable in term of:
 - How can proceed without causing sustained adverse impact on traffic flows is the area.
 - Ensuring sustained and uninterrupted access to local business and homeowners' private garages.
 - Ensuring continued safety on public pathways – pathway on Kimmage Road Lower is already notable for its narrowness which poses challenges for both car movements and cyclists.
- Negative impact in terms of noise and pollution on existing residents.

- Harolds Cross Park is the biggest amenity for existing residents which is also financially supported by Dublin City Council – proposed location and height will have an adverse impact on the reach of the evening sun into the south of the park.
- A 5 storey building will undoubtedly have an adverse impact on the experience of how people use and view the park area – proposal cannot be consider in isolation from the impact on the public park and the intent and purpose of that amenity for the public good.
- Impact of the sun on the open space brings an incredible sense of wellbeing for existing residents.
- Submitted shadow drawings do not capture the full adverse impact of what this proposed development will mean for this Victorian era park.
- Proposal will give rise to overshadowing and block natural light of dwelling immediate adjacent - 2 storey 1870s Victorian House. This is captured on shadow drawings submitted.

5. Philip O'Reilly.

- Call for decision to be upheld and permission refused.
- Proposal is of extremely high density located on a restrictive site situated at a very dangerous junction of Harolds Cross Road, Mount Angus Road, Kimmage Road Lower and Shamrock Villas.
- Area already densely developed for current state of infrastructure in the area.
- Junction between Harolds Cross Road and Kimmage Road Lower is extremely dangerous and restricted to barely two lanes of traffic and severely congested – traffic continuously backed up at either end.
- Junction between Harolds Cross Road and Shamrock Villas – extremely dangerous and locked directly with the dangerous junction with Kimmage Road Lower.
- Road pattern in the vicinity is too narrow, too complicated and restrictive for a development of this height and size – site is located in an area of complex web of extremely narrow and busy roads feeding into dangerous junctions.

- This is an area of single and two storey structures facing onto complex busy junctions – infrastructure in area cannot handle any high-density development.
- Proposal does not respect the traditional scale character or setting of the area and is totally alien to the pattern of development – should not be admitted.
- Recent developments have been quoted by way of precedent – over past 15 years some horrendous developments which do nothing for the character of the area have significantly degraded the character and setting of the area resulting in a seriously worse environmental and residential amenity.
- Permission granted at 314-320 Harolds Cross Road, Fitzpatrick's Cottages, and 280-286 Harold's Cross Road are all examples of the development which should never have been permitted as it detracts from the village – these do nothing except cause negative impacts upon residential, visual and environmental amenity.
- Permission granted at 146-186 Harolds Cross Road is a smaller development and more in keeping with the ethos of the area – clear access to sightlines and not imposing to negotiate congestion.
- The proposed development will not win many positive points in terms of proper planning and sustainable development and will be shown when finished what a mess this junction will be.
- Precedent ABP-321531-24 - Similar to this proposal where the objective was to squeeze as many units onto site as possible. An Bord Pleanála upheld the decision of the Planning Authority and refuse permission.
- Density, height and design of current proposal are inappropriate for the subject site.
- Proposal constitutes a serious overdevelopment of the subject site which is very restrictive in nature will result in a development which will be significantly deficient in necessary amenities such as light, open space and satisfactory aspect.

8.0 Assessment

Having reviewed the 1st party appeal and all other documentation on file including the reports of the local authority, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development.
- Response to Refusal No. 1.
- Amenity.
- Principle of Development.
- Built Heritage.
- Other Matters

8.1. Principle of Development

- 8.1.1. The subject site is situated at no. 174 to no. 180 Harold Cross Road, Dublin 6W. The site is zoned under Objective Z4 - Key Urban Villages/Urban Villages where the key objective seeks to provide for and improve mixed-services facilities. I note that residential development is listed as a permissible use under this objective.
- 8.1.2. Harolds Cross is not included within the list that identifies Key Urban Villages asset out under the zoning objective (section 14.7.4 of the Dublin City plan 2022-2028) and as such it is therefore identified as an Urban Village. I note further that Harold Cross is also identified as priority for a designation of an Architectural Conservation Area over the period of the current Dublin City Development Plan 2022-2028 (section 11.5.2 of the Dublin City plan 2022-2028).
- 8.1.3. Overall, I consider that the principle of development is acceptable in terms of the land use zoning subject to a full robust assessment against the relevant policies of the Dublin City Development Plan 2022-2028.

8.2. Response to Refusal No. 1

- 8.2.1. The 1st reason for refusal set out by the Planning Authority relates to scale, massing and design of the proposed development which the Planning Authority considered would seriously injure the residential and visual amenities of the surrounding area by reason of overbearing and overdevelopment of the site. I note that this reason for refusal also relates to impact on residential amenity in terms of overlooking which I intended to deal with separately within the next section of my assessment (section 8.3).
- 8.2.2. The reason for refusal states that the proposed development would be contrary to the Urban Development and Building Height Guidelines for Planning Authorities (2018), Sustainable Residential and Compact Settlement Guidelines (2024), and the Dublin City Development Plan (2022-2028). However, I note no specific policies or objectives have been referenced within the reason for refusal.
- 8.2.3. The 1st Party appellant has offered a response to each of the concerns raised by the planning authority within their appeal document. They set out how the proposed development would overcome all of the concerns raised.
- 8.2.4. In the first instance with regard to building heights, the 1st party appellant has stated that the Building Height Guidelines for Planning Authorities, 2018 states that 6 stories is the default for central and accessible neighbourhoods and given that Harolds Cross is a key urban village within walking distance of the City Centre it would be the optimal location for a variation of building heights.
- 8.2.5. I note that Harold Cross is not included within the list of Key Urban Villages as set out in Section 14.7.4 of the City Development Plan 2022-2028 and as such is considered to be a 'urban village'. From a review of the Building Height Guidelines for Planning Authorities, 2018 I further note that Section 1.10 makes reference to building heights of at least 6 storeys to be appropriate within the canal ring in Dublin. The subject site is not located within the canal ring so I therefore do not accept the assumption of the Appellant that the subject site would be an optimal location in terms of the policy set out in the Building Height Guidelines, 2018.
- 8.2.6. The prevailing established building height of the surrounding area is bungalow to two storey buildings with some insertion's of 4/5 storey redevelopments located in the

wider area. I consider that the proposal subject to this appeal must demonstrate compliance with Section 3.2 of these guidelines which sets out development management criteria for applications for permission seeking a deviation in height from the established pattern of development within the area. Firstly, the proposal must be well served by public transport. I accept that having regard to the location of the subject site in Harolds Cross, which is served by the F-Spine of Bus connects that the proposal would satisfy this criteria.

- 8.2.7. The second criteria relates to proposals within architecturally sensitive areas, which should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. In this instance I note that the appellant has stated that the proposal integrates into the character and public realm of the area, as demonstrated in the Architectural Design Statement submitted.
- 8.2.8. On review of the design statement submitted, I fail to see how this has been demonstrated. I consider that the prominent location of the subject site and its juxtaposition to the Kimmage Road, Harolds Cross Road and Shamrock Villas together with the massing of the proposed building fails to have regard to the surrounding context and together with the excessive palette of materials proposed on all elevations becomes visually dominant and is therefore out of keeping with the established topography and established architectural character of the area.
- 8.2.9. While I note that the design statement submitted has assessed the proposal against the 12 urban design criteria as set out within the Urban Design Manual (2009) this has not provided a justification for the deviation from the prevailing building heights within this Urban Area. The statement submitted has not provided for an assessment of the proposed scheme against Section 3.2 of the Building Heights guidelines to justify the deviation from the established height of the surrounding area being proposed.
- 8.2.10. As such, I consider that the development as proposed would fail to comply with SPPR 3 which requires an applicant seeking permission for increased height to set out how a development proposal complies with the criteria within section 3.2 of the Building Height Guidelines, 2018.

8.2.11. With regard to density, the proposed development has a stated area of 0.091ha and permission is being sought for 26 no. apartment units. This would therefore generate a density of 285 units per hectare. Appendix 3 of the Dublin City Development Plan 2022-2028 sets out density ranges to be followed ‘as a general rule’.

8.2.12. Table 1 of appendix 3 sets out the net density ranges for development within the City. It states for Key Urban Villages a density range of 60-150 units per hectare is acceptable. Therefore, in its current form the proposed development would represent a material contravention of the City Development Plan. However, Appendix 3 further notes that:

‘It is acknowledged that schemes of increased density are often coupled with buildings of increased height and scale. Where a scheme proposes buildings and density that are significantly higher and denser than the prevailing context, the performance criteria set out in Table 3 shall apply.’

8.2.13. The surrounding area comprises of a medium density of 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 streetscapes.

8.2.14. There is a 4 storey building situated c.60m to the east of the subject site. 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. The building provides for 2no. residential units over 2no. commercial units.

8.2.15. 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:

Criteria 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
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	<p>and density in the immediate area. The design is distinctive but is monolithic and fails to respect the existing character of the area.</p> <p>The proposal would also give rise to a detrimental effect on the area of public open space which it directly imposes in terms of overbearance.</p>
Criteria 2 – To Provide Appropriate Legibility	<p>In my opinion, similar to my assessment above, the proposal, due to the increased density would fail to positively contribute to the streetscape or respond adequately to the established context of the surrounding area due to the inappropriate juxtaposition between the proposed and established building heights.</p> <p>The differentiation between the proposed 5 storeys versus the established two storey and single storey buildings along Kimmage Road Lower, Shamrock Villas and Harolds Cross Road would only exacerbate the perception of overbearance that the proposal would give rise to more.</p>
Criteria 3 - To provide Appropriate Continuity and Enclosure of Streets and Spaces	<p>I consider that the proposal would have a detrimental impact on active street front at this location on foot of the loss of the commercial operations. While the elevations proposed include for window openings at ground floor elevation the lack of pedestrian movements will reduce passive surveillance. Given the size of the development site and the nature of the proposed use, there is limited ability to provide any public open space.</p>

<p>Criteria 4 - To provide well connected, high quality and active public and communal spaces.</p>	<p>The proposed development is located directly opposing an established public park which will serve the future potential residents. Given the size of the development site and the nature of the proposed use, there is limited ability to provide any public open space.</p> <p>The introduction of communal open spaces at the upper level of the development will also give rise to issues of overlooking of private amenity space serving adjoining properties.</p> <p>Furthermore, having regard to the orientation of these communal area and the lack of passive surveillance from the proposed apartment units, I am of the opinion that they may not offer any level of amenity.</p>
<p>Criteria 5 - To Provide High Quality, Attractive and Useable Private Spaces</p>	<p>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. This concern is addressed further within section 8.3 of my report below.</p>
<p>Criteria 6 - To Promote Mix of Use and Diversity of Activities</p>	<p>The proposed development does not provide for a mix of activities. Permission is being sought solely for a residential development. The demolition of the existing uses will reduce the level of commercial offerings within the vicinity.</p>
<p>Criteria 7 - To ensure high quality and environmentally sustainable buildings.</p>	<p>The application was not accompanied by a Construction Management Plan. It is considered that one would be required in</p>

	<p>order to undertake the development proposed given the restrictive nature of the site which is accessed via a number of very limited laneways in terms of width. This would be required to be submitted by way of condition to be agreed with the Planning Authority in the event the Commission were minded to grant permission.</p> <p>A sustainability report/energy statement is received with the application.</p>
Criteria 8 - To Secure Sustainable Density, Intensity at Locations of High Accessibility	<p>The development is appropriately located in a central, highly accessible area with excellent access to frequent public transport. The development also provides for a large number of secure bicycle parking which are considered to be very accessible.</p> <p>However as previously stated, I consider that the development of this site needs to represent a balance between the location of the site proximate to an area of high density development and a high-quality transportation corridor to the historic character of the host buildings and traditional residential development located within the immediate vicinity of the site.</p>
Criteria 9 - To Protect Historic Environments from Insensitive Development	<p>The design and layout of the proposed development has failed to adequately address the setting and character of the surrounding area which include for the historic setting of Mount Jermon and the protected structures within the wider area. Furthermore, I note that it is the intention of the Planning Authority to designate the Harolds Cross Area as per Section 11.5.2. of the Dublin City Development Plan 2022-2028.</p>

Criteria 10 - To Ensure Appropriate Management and Maintenance	Matters of security, management of public/communal areas, waste management, servicing and delivery can all be satisfactorily addressed by condition in the event that the Board grant permission.
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- 8.2.16. Having regard to the above, I am of the opinion that 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.
- 8.2.17. The Compact Settlement Guidelines, which 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 a '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 of the compact guideline's states that densities in this area type should be 50-250 dph.
- 8.2.18. The appellant states that 'City urban neighbourhood' is a broad term that the guidelines are intentionally open to interpretation at decision-making stage and that the density ranges set out are to be applied as a guidance only and can be exceeded.
- 8.2.19. I do not accept that the density as prescribed within the Compact Guidelines are 'only a guidance', this is not confirmed anywhere within the document as published. However, section 3.4 of the guidelines affords an opportunity for developments to exceed the density range sets as identified in Section 3.3 based on consideration of a number of criteria. This requires that the development as proposed to comply with two steps as set out in section 3.4.1 and 3.4.2 of the guidelines.
- 8.2.20. Step 1 states that lands within 1,000 metres (1km) walking distance of an existing or planned high-capacity urban public transport nodes will be considered. I note that the subject site is located adjacent to the F spine of Bus Connects and as such it would comply with step 1.
- 8.2.21. Step 2 relates to the consideration of the receiving environment and the positive impact the proposal would have upon it. It is stated that the development as proposed should not result in a significant negative impact on character (including historic

character), amenity or the natural environment. Having regard to the table above and my comments with regard to the criteria set out within the Dublin City Development Plan, I consider that the proposed development would give rise to a detrimental impact on the local character having regard to the significant deviation from the established height which will be overbearing upon the adjoining residential units and represent overdevelopment of this restrictive site. Furthermore, the proposed elevational treatment fails to have regard to the established urban grain and architectural language which has been established within the immediate context of the site. The overall design ethos of the proposed development has failed to respond in a positive and proportionate way to the receiving context through site responsive design.

8.2.22. Furthermore, the development as proposed will give rise to a significant negative impact upon the current residential amenities enjoyed within the vicinity in terms of overlooking, overbearance and overshadowing. All of which is discussed further within the next section of my report (section 8.3).

8.2.23. Overall, I fail to see how a development with a density which is in excess of both that set out within the Sustainable Compact Guidelines and the Dublin City Development Plan 2022-2028 could be considered as plan led or acceptable on this prominent site within Harolds Cross. I therefore agree with the 1st reason for refusal and consider to grant permission for the proposed development would be contrary to SPPR 3 of the Building Height Guidelines, would be contrary to Table 3.2 and Section 3.4 of the Sustainable Compact Guidelines and contravene Appendix 3 of the Dublin City Development Plan 2022-2023. It is therefore concluded that the proposed development in its current form would represent overdevelopment of the subject site and I recommend that permission be refused.

8.3. **Amenity**

8.3.1. The Planning Authority further considers that the proposed development would not adequately respect the residential amenities of the adjoining properties or the residential amenity of future occupiers of the development, as it provides poor quality communal open space and levels of privacy.

- 8.3.2. I consider that issues relating to residential amenity need to be considered with regard to the impact on the current level of residential amenity enjoyed at this location and the future potential residential amenity of future residents.

Existing Residential Amenity

- 8.3.3. The Planning Authority within their 1st reason for refusal cited that the proposal in its current form would give rise to issues of overlooking due to the location of windows and balconies in proximity to the rear garden of No. 1 Shamrock Villas and 4 Harold's Cross Road. The appellant contends that introduction of a step down at the end of the building where it meets Shamrock Villas overcomes all concerns raised.
- 8.3.4. I note that the 1st party appeal did not directly address the concerns with regards to issues of overlooking directly but rather has relied on a broad statement relating to how the design process considered the adjoining dwellings.
- 8.3.5. The subject site is restrictive in nature given its elongated form along the western boundary and limited widths. The building has been arranged where the longest elevation is along the western boundary where the site addresses the Kimmage Road Lower. I note that south-western elevation, which is internal to the site has been set at a maximum c.4.3m from the shared boundary with the private amenity space serving no. 1 Shamrock Villas.
- 8.3.6. From assessment of drawing no. 301 'Proposed Elevations West Internal, South Internal and south', I note that unit no. 11 located on the 1st Floor and unit no. 17 located on the 2nd floor are provide with a private balcony and a window ope serving the living accommodation which would directly overlook the private amenity space serving no. 1 Shamrock Villas. The balconies serving these 2 no. units are set c.3.6m from the shared boundary, while the ope serving the living area is set c.2.1m from same.
- 8.4. The proposed development also provides for a communal roof garden at 3rd and 4th level. The area proposed at 4th floor level has been set in c.12m from the shared boundary with no. 4 Kimmage Road Lower, the terrace at 3rd floor level is set in c.1.4m from same. While I note that these areas are provided with privacy screens which are indicated to be 1.8m in height, I would have concern over issues of perceived overlooking to the adjoining properties, both 4 Kimmage Road Lower and 1 Shamrock Villas given the proximity of the terrace areas.

- 8.5. Overall, I accept the concerns raised by the planning authority with regard to issues of overlooking and consider to permit the proposed development would be detrimental to the current level of residential amenities enjoyed by the adjoining properties.
- 8.6. A second concern raised by the Planning Authority relates to issues of overshadowing. This was further raised by a number of observers to this appeal. The appellant contends that the shadow analysis submitted shows no new significant harmful effects and only some minor impacts on apartments to the north for a short period of the year.
- 8.7. Having assessed the shadow analysis submitted against the orientation of the subject site relative to the path of the sun, I consider that the assessment demonstrates that there will be levels of overshadowing affecting No. 1 Shamrock Villas which would be detrimental to the current level of residential amenity enjoyed at this location.
- 8.8. Furthermore, I consider that the proposal will also give rise to some level of overshadowing of the private amenity space serving no. 4 Kimmage Road Lower. I would note to the Commission that I consider the shadow assessment submitted to be rather high level in nature and lacking in a sufficient quantitative assessment of the impact that the proposal will have on its surroundings. No reasoned conclusion has accompanied the analysis other than the statement included within the 1st Party appeal which references the shadows analysis submission.
- 8.9. Having regard to the above, I consider to grant planning permission for the proposed development would give rise to a negative impact upon the current level of residential amenity in terms of overlooking, overshadowing and overbearance upon the surrounding area.

Future Residential Amenity

- 8.9.1. The applicant has submitted a Housing Quality Assessment which has demonstrated how the proposed development has complied with the relevant sequential standards as required by the relevant Apartment Guidelines for Planning Authorities. Having assessed this document against the floor plans submitted I accept that the proposed apartment units will provide for an adequate level of internal amenity for future potential residents.
- 8.9.2. The Planning Authority in their assessment raised concerns over the quality of the communal open space being proposed at 3rd and 4th floor which are located at the

south-western corner of the building. The Planning Officer within their assessment states that the lack of passive surveillance of these areas would be a concern. This was also highlighted by a number of observers to the appeal. A further concern also related to the location of the bin stores proximate to the main entrance to the building.

- 8.9.3. The appellant in response stated that all future residents will enjoy a high standard of apartment living which provides for well-proportioned units which are in excess of the minimum standards and 285sq.m communal open space.
- 8.9.4. I note that the communal open space located at 3rd floor level is accessed via the circulation. The northern side of this area is formed with a blank elevation (unit no. 22). Unit no. 22 is not provided with any opes along the side elevation that would provide for some level of passive surveillance of this communal space. Furthermore, the communal open space situated at 4th floor is provided in a similar manner in that there is no passive surveillance from any unit proposed as the boundary is formed with the lift core.
- 8.9.5. I accept that the communal area at 4th floor may provide for some level of surveillance to the communal area below, at 3rd floor level, the 4th floor area remains completely unsupervised and would therefore allow for issues of safety concern and anti-social behaviour to occur. I further note that having regard to the shadow analysis submitted, I would have a concern over the level of amenity the communal space at ground floor level would provide or future residents having regard to the path of the sun relative to the orientation of the site which would give rise to issues of overshadowing.
- 8.9.6. I would accept the concerns raised by the planning officer in this regard and consider to permit permission for this development would not provide for an adequate amenity for future potential residents given the substandard form of communal open space being provided for.
- 8.9.7. With regard to the concern raised relating to the location of the bin store proximate to the main entrance to the building from Harold Cross Road, I note that the bin store is proposed to be located within a room which is enclosed. The room is situated proximate to the switch room/plant room and is located at the secondary entrance to the building at the south-east corner of the site. I accept the location of the bin store and consider it to be acceptable.

8.10. Principle of Demolition

- 8.10.1. The second reason for refusal put forward by the Planning Authority relates to the concerns raised with regard to the proposed demolition of the building on site.
- 8.10.2. Policy BHA6 of the City Development Plan sets out a presumption against demolishing structures evident on the Ordnance Survey of Dublin City, 1847 unless a conservation report demonstrates that there is little or no special interest or merit in the buildings. I note that the building subject to demolition appears on the 1836-44 1st Edition Ordnance Survey 6 inch Map which I viewed at [Irish Townland and Historical Map Viewer](#) on the 29th August 2025.
- 8.10.3. A Conservation Report was submitted with the application documents, prepared by a Grade 1 Conservation Architect, and states under section 6 of the report that *‘McGowan’s is considered of no architectural, cultural or social merit. The original nineteenth century buildings on the site have been almost completely removed leaving no surviving features of note and the mid-20th century extensions to the rear and sides are also considered of no architectural, cultural or social merit.’*
- 8.10.4. It is further stated under section 6 that the proposal is considered to have a positive impact on the site as it will replace a building considered of no architectural, cultural or social merit and replace it with a building of contemporary design considered of architectural quality; considered to have a Neutral Impact on the Protected Structures in the vicinity of the site, the only one being 152 Harold’s Cross Road and although there will be a view to and from the Protected Structure to the proposed development it is not considered to have a negative impact on it; and considered to have a Positive Impact on the streetscapes of Harold’s Cross Road, Shamrock Villas, Lower Kimmage Road and Harold’s Cross Park as the building will provide an architectural bookend of quality.
- 8.10.5. The report of both the Conservation Officer and Planning Officer considered that the Conservation Report provides insufficient analysis of the historic form, fabric and significance of the extant terraced structures which have been amalgamated as a large public house and notes that *‘Although the properties have been amalgamated, over-restored and modified, their early architectural form remains legible. From a conservation perspective, it would be far preferable to retain the extant historic*

structures and adapt them for reuse while sensitively conserving them so that they may contribute more fully to the special character of the Z4 area.'

- 8.10.6. The 1st Party Appellant contends that the red line boundary has no building within it that is of architectural significance, the buildings posed for demolition are not protected structures and they are not listed on the National Inventory of Architectural Heritage (NIAH) database and the site is not in any Architectural Conservation Area. It is contended that Policy BHA6 is opaque in its application and that the Conservation Officer's position that there could potentially be merit in the future if surveyed by the NIAH has no basis in planning policy or reason.
- 8.10.7. The appellant further states that it is important to distinguish between old buildings and buildings of intrinsic historic value if we are to pursue compact growth objectives as set out in national and regional planning policy. It is contended that it cannot be said that the architectural significance of the existing buildings outweighs the wider public benefit of infill development and supplying new urban housing in Dublin.
- 8.10.8. A number of observers to this appeal also raise concern over the proposed demolition of the building which is noted to appear on historic maps of Dublin. It is stated that the applicant did not provide sufficient evidence or analysis to determine the significance of the historic structures on site and that the assessment should include for more detailed information that identifies the extant historic and modern fabric in order to arrive at a conclusion for demolition.
- 8.10.9. I consider that the wording of Policy BHA6 of the City Development Plan to be very clear when it comes to the demolition of buildings which appear on historic maps. As set out above I have demonstrated that the buildings subject to this application, albeit modified in form, do appear on 1836-44 1st Edition Ordnance Survey 6 inch Map. The policy does allow for the demolition of such buildings where it has been clearly demonstrated within a Conservation Report that the building has little or no special interest or merit.
- 8.10.10. Having reviewed the Conservation Report submitted I agree with the report of the conservation officer of the local authority and consider that the assessment submitted has drawn conclusions without providing a clear justification or assessment for how they were reached. It has failed to assess the fabric, form and historical context of the

subject site and instead has offered a high-level description of the evolution of the wider Harold's Cross Area.

8.10.11. While I note that the subject site is not offered any level of architectural protection, I do note the intention of the Planning Authority to include Harolds Cross on the priority list to be designated as an Architectural Conservation Area within the lifetime of the current City Development Plan (Section 11.5.2). The Conservation Report submitted failed to give recognition of this intention of the Planning Authority.

8.10.12. Overall, I do not accept that the Applicant has put forward a robust argument or assessment that justifies the demolition of the existing buildings on site that would accord with the requirements of Policy BHA6 and I therefore recommend that permission be refused on this basis.

8.11. **Built Heritage**

8.11.1. I note the contents of the Local Authority's Conservation Officer's report which stated that the proposed development would be of insufficient architectural quality and an inappropriate intervention within the historic urban village. The proposed development was considered to be highly visible and detract from the long-established, historic character of the receiving environment. It was considered that the proposed development, which would rise to 3, 4 and 5 storeys, would be over-scaled and would have a detrimental impact on the architectural character of the receiving environment.

8.11.2. In the first instance, I note that the subject site does not contain any protected structures and there are no protected structures located within the immediate vicinity of the site. The closest protected structure is situated c.76 to the north located at entrance to Mount Jerome. The site is not located within an Architectural Conservation Area; however, it is important to note that the Harolds Cross Area has been identified under section 11.5.2. of the Dublin City Development Plan 2022-2028 as a priority to be designated as an ACA within the lifetime of this plan.

8.11.3. Section 14.7.4 of the Dublin City Plan, 2022-2028, which set out the principle for development within the Z4 Land use zoning areas states, with regard to built heritage, *'Development should have regard to the existing urban form, scale and character and be consistent with the built heritage of the area'*.

8.11.4. 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 area. I do not accept the conclusion drawn within the Architects Design Statement which states *'the proposed development in Harold's Cross represents a thoughtful and well-considered approach to urban growth and regeneration. Attention to detail is evident in the choice of materials, the landscaping, and the implementation of energy-efficient measures, underlining a commitment to creating a sustainable and visually appealing urban environment'*.

8.11.5. Furthermore, I also fail to accept the concluding statement of the Architectural and built heritage assessment which states 'the Architects have designed a bright and lively development of contemporary design, which will fit into the surrounding urban context'. I consider that both the project architect and the conservation architect have failed to consider the historic context of Harold Cross in their design and assessments and have provide a scheme which has failed to have regard to the exiting urban form, scale and character of the surrounding area. I therefore recommend that reason for refusal no. 2 is upheld due to negative impacts to the built heritage of the area.

8.12. Other Matters

8.12.1. Traffic

Concerns have been raised by an observer to this appeal relating to the impact the proposal will have upon the footpath and surrounding road networks during construction and operation phase. It is contended that this is one of the main routes into the city centre and will shortly become a major bus corridor.

While I accept that there will be some level of disruption during the construction phase, I consider that at operational phase the proposed development would provide for an improvement for pedestrians within the vicinity. The proposed building has been set back from the boundaries of the site which will allow for the provision of a widened footpath with the continuous width of 2m.

I note that the report from the Transportation Planning Section have also raised concerns over the impact the proposal would have upon the planned QBC and has requested that further detail be submitted with regard to this. I consider that the Outline

Construction Management Plan submitted is lacking in considerable detail surrounding the impact on the multiple junctions and narrow laneway adjoining the site and the planned QBC. This would need to be supplemented in the event that the Commission consider granting permission for this development.

8.12.2. Environmental Impact Assessment Report

An observer to the appeal has raised a question over whether an EIAR should have been submitted and it was considered that the proposal would give rise to issues of overshadowing of Harolds Cross park impacting the Flora an Funa.

While I agree, having regard to the proximity of the subject site to Harold Cross Park and the orientation of the site relative to the path of the sun, that the proposal will impact the park in terms of overshadowing, I note that I have undertaken a screening determination of the proposed development as set out within section 6, and appendix 1 and 2 of this report, and determined that EIA is not require. I further note that an EIA Screening Assessment is not a statutory requirement to be submitted with an application for permission. It is part of the role of the Planning Authority and subsequently the Commission being the competent authorities to undertake such assessment.

9.0 AA Screening

- 9.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. 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.
- 9.2. The proposed development comprises demolition of existing commercial and residential structures and construction of 26 no. apartments ranging from 3-5 stories in one block.
- 9.3. No nature conservation concerns were raised in the planning appeal. 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.
- 9.4. The reason for this conclusion is as follows:

- The small scale and domestic nature of the works in a serviced urban area,
- The distance from the nearest European site and lack of connections, and
- Taking into account screening report/determination by Dublin City Council.

9.5. 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. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Water Framework Directive

10.1. The subject site is located approximately c.94m to the east of the Poddle River. However, I note that the River Poddle is culverted until it reached the Grand Canal. The Grand Canale is situated c.741m to the north of the subject site.

10.2. The proposed development comprises the demolition of the existing buildings on site and the construction of 26 no. apartments with all associated site works. No water deterioration concerns were raised in the planning appeal.

10.3. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. 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 surface and/or groundwater water bodies either qualitatively or quantitatively.

10.4. The reason for this conclusion is as follows:

- The nature of the development in an urban environment.
- There are no waterbodies within the site.
- The location of the site approximately 0 c.94m to the east of the Poddle River and the lack of a hydrological connection.

10.5. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

I recommend that the Board uphold the decision of Dublin City Council and refuse planning permission for the reasons set out below.

12.0 Reasons and Considerations

1. Having regard to the scale, massing and design of the proposed development, the proximity of the proposed building to private amenity space serving the immediate adjoining properties, its location on this prominent site opposite Harold's Cross Park and in close proximity to historic buildings and Protected Structures, it is considered that the proposed development would seriously injure the residential and visual amenities of the streetscape by reason of overbearing, overdevelopment and overlooking. The proposed development would be contrary to SPPR 3 of the Urban Development and Building Height Guidelines, 2018, would be contrary to Table 3.2 and Section 3.4 of the Sustainable Residential Development and Compact Guidelines, 2024, and contravene Appendix 3 of the Dublin City Development Plan 2022-2023. As such, the proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of the demolition, without sufficient justification, of existing extant structures which, although not protected, make a positive contribution to the character, appearance and quality of local streetscapes, and the replacement with structures which are of excessive height, scale and massing at a prominent corner location, would seriously detract from the existing character of the area and, therefore, would be contrary to the provisions of Policy BHA6 – Buildings on Historic Maps of the Dublin City

Development Plan 2022-2028. Additionally, the proposed development would not conserve nor enhance the special architectural character of the traditional urban village of Harold Cross. 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.

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.

Kathy Tuck

Planning Inspector

3rd September 2025

Appendix 1

EIA Pre-Screening

Case Reference	ABP-322636-25
Proposed Development Summary	Demolition of buildings and construction of residential building containing a total of 26 No. apartments all with associated site works, bicycle store, landscaping and services.
Development Address	174-180 Harolds Cross Road, Harolds Cross, Terenure, Dublin 6W.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	

<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.	<p>If a development is not a Class –</p>
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.	<p>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</p>

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____

Date: _____

Appendix 2

EIA Preliminary Examination

Case Reference	ABP-322636-25
Proposed Development Summary	Demolition of buildings and construction of residential building containing a total of 26 No. apartments all with associated site works, bicycle store, landscaping and services.
Development Address	174-180 Harolds Cross Road, Harolds Cross, Terenure, 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 land use, abundance/capacity of natural	<p>The development is situated in an urban area on a site facing the street and situated adjacent to existing residential properties and an areas of public open space which is not exceptional in the context of surrounding development.</p>

<p>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 within the vicinity of the site. 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</p> <p>(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 style="text-align: center;">Conclusion</p>	
<p>Likelihood of Significant Effects</p>	<p>Conclusion in respect of EIA</p>
<p>There is no real likelihood of significant effects on the environment.</p>	<p>EIA is not required.</p>

Inspector: _____ Date: _____

Appendix 3

Screening the need for Appropriate Assessment

Appropriate Assessment :Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The proposed development comprises the demolition of existing commercial and residential structures and construction of 26 no. apartments ranging from 3-5 stories in one block and all associated site works.

The Planning Authority, within their assessment, noted that no appropriate assessment screening report was submitted as part of the application documentation and that this should have accompanied the application. From assessment of the Planning Officers report I note that the Planning Authority did not undertake a screening determination for Appropriate Assessment.

European Sites

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation or Special Protection Area (SPA).

The boundary of the nearest European Site is within 15 km or 5 no. of European sites are located within a potential zone of influence of the proposed development.

These are:

- South Dublin Bay and River Tolka Estuary SPA (004024)
- South Dublin Bay SAC (000210)
-

There are no direct natural hydrological connections from the subject site to Dublin Bay.

The applicant is proposing to connect to existing municipal services in terms of water supply and wastewater/drainage. Therefore, there is an indirect pathway to the European sites of Dublin Bay via the Ringsend Waste Water Treatment Plant. I therefore acknowledge that there are potential connections to the European sites within Dublin Bay via the wider drainage network and the Ringsend WWTP. However, the existence of these potential pathways does not necessarily mean that potential significant effects will arise.

Likely impacts of the project (alone or in combination)

It is proposed to separate the surface water and wastewater drainage networks, which will serve the proposed development.

With regard to surface water, it is proposed to collect rainfall runoff within the blue roof located at roof level and at upper floor terrace areas. A small allowance of available storage space is available to the North of the site within the profile of the red line and this will consist of an oversized chamber below ground. This will also incorporate the flow control device for the ground floor sections of storage on the site before the system connects to the final foul manhole prior to connecting to the Irish Water Combined network.

All wastewater generated from the new development site is to discharge to the Irish water local wastewater drainage network. All wastewater from the upper levels of the block shall be routed by a piped network and then discharged to the final manhole on the site prior to discharging to the local network.

I do not consider that the increased loading from the proposed development would generate any significant demands on the existing municipal sewers for foul water. I acknowledge that there would be a marginal increase in loadings to the sewer and the WWTP.

Having regard to the distance separating the site to the nearby Natura 2000 site there is no pathway for loss or disturbance of important habitats or important species associated with the feature of interests of any of the SPA/SAC's identified above.

Furthermore, there are no plans or projects which can act in combination with the proposed development which can give rise to significant effect to Natura 2000 sites located within the zone of influence.

Overall Conclusion

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The scale of the development;
- The location of the subject site within the urban context of Dublin City Centre;
- The lack of any direct connections to the nearest Natura 2000 site; and
- Taking into account appropriate assessment screening report submitted with the application.

Inspector: _____ Date: _____