



## Inspector's Report

**PL-500754-DS-26**

<b>Development</b>	Demolition of buildings including basement on site, construction of residential building containing 20 No. apartments and all associated works.
<b>Location</b>	174-180 Harold's Cross Road, Harold's Cross, Terenure, Dublin 6W, (known as McGowans of Harolds Cross)
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	WEB5648/25
<b>Applicant(s)</b>	Bernard McGowan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party Normal Planning Appeal
<b>Appellant(s)</b>	Bernard McGowan
<b>Observer(s)</b>	Philip O'Reilly Harold's Cross Village Community Council Paula Russell and Michael Roche
<b>Date of Site Inspection</b>	27 <sup>th</sup> April 2026
<b>Inspector</b>	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. Original Design

2.1.1. 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 and part 4 storey residential building, containing a total of 20 apartments comprising of:
  - 3 no. studio apartment units.
  - 7 no. 1 bed units.
  - 7 no. 2 bed units.
  - 3 no. 3 bed units.

2.1.2. Permission is also being sought for 1no. substation at ground floor level; communal amenity spaces on the ground level and all with associated site works, bicycle store, landscaping and services.

- 2.1.3. The building is dog-legged in form having a length of c.38.2m along the north-western elevation where it addresses the R817 (Kimmage Road Lower) and a length of 28.2m along the north-eastern elevation where it addresses the Harolds Cross Road. The building has a principal height of 15.2m along the north-western elevation which steps down to 11.95m along the east elevation.
- 2.1.4. Material finishes indicated on plan include the use of brown and yellow brick along the north-western elevation at ground, 1<sup>st</sup> and 2<sup>nd</sup> floor with the 3<sup>rd</sup> floor being finished with a mix of grey render and grey/black zinc clad. brown and yellow brick is also proposed at 1<sup>st</sup> and 2<sup>nd</sup> floor of the north-western elevation with zinc and grey render proposed at 3<sup>rd</sup> floor.

## 2.2. Amended Plans

- 2.2.1. I note that the appellant has submitted amended plans as part of the 1<sup>st</sup> party appeal lodged with An Coimisiun Pleanála on the 10<sup>th</sup> February 2026. The amended plans have reduced the overall development by omitting 4 no. apartment units which were previously proposed to be situated on north-eastern corner of the building and it is now proposed to retain the existing building which is situated adjacent to Shamrock Villas.
- 2.2.2. The amended proposal provides for 16 no. apartment units which comprise of:
- 7 no. 1 bed 1 person units.
  - 2 no. 2 bed 4 persons units.
  - 1 no. 2 bed 3 persons unit.
  - 4 no. 3 bed duplex units.
  - 2 no. residential units at ground floor and 1<sup>st</sup> floor of the building to be retained.
- 2.2.3. The amended scheme provides for c.169sq.m of communal open space and 46 no. bicycle parking spaces. In addition, it is also proposed to preserve the original building facade along Harold Cross Road.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority issued a decision to refuse planning permission on the 13<sup>th</sup> January 2026 for the following reasons:

1. 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, would seriously detract from the existing character of the area and would therefore 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's Cross. The proposed development would therefore seriously injure the visual and residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the design of the building, including a number of windows and balconies in close proximity to the boundary wall with number 1 Shamrock Villas, it is considered that the proposed development would result in overlooking of this property, which would seriously injure their residential amenities. The proposed development would therefore 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, however it stated that 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.

In terms of impact on Built Heritage, the report makes reference to the previous reason for refusal issued by the commission and states that it remains the intention of the applicant to demolish the existing structures on site. It notes that while no Conservation report was received in relation to the proposed scheme, the previous report remains valid. The report states that while it is acknowledged that the applicant intends to reduce the form and height of the proposed development from the previously submitted, the demolition of numbers 176-178 located to the east of the pub is still included in this proposal and is not adequately justified.

A further concern raised over the impact the proposed development would have upon the existing residential amenities of the areas with a specific reference to issues of overlooking to number 1 Shamrock Villas. As such, a recommendation in line with the decision issued was made.

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

- **Transport Planning Section**

Further information be requested

- **Archaeology Section**

Recommends permission be refused :

Proposal is contrary to Dublin City Development Plan Policy BHA6, 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; The proposal for demolition is contrary to Dublin City Development Plan, which lists Harold's Cross as a priority ACA; The development would have a detrimental impact on the historic character of the streetscape of Harold's Cross (Recorded Monument) and on the visual amenity of the public park (medieval village green); and The application is not supported by an archaeological assessment contrary to Dublin City Development Plan Policy BHA26.4: Archaeological Heritage.

- **Environmental Health Officer**

No objection subject to condition.

- **Drainage Division**

No objection subject to condition.

### 3.3. Prescribed Bodies

- **Uisce Eireann**

No objection subject to condition.

### 3.4. Third Party Observations

The planning authority received a number of submission relating to the proposed development and the Planning Officer sets out a detailed synopsis of such within their assessment. The concerns reflect the issues raised by observers to this appeal. The broad theme of such includes for:

- does not address the issues that were identified in the previous refusal.
- Overlooking;/overbearance/overshadowing.
- Out of character with the area.
- Contrary to the provisions of the DCDP 2022-2028, the Sustainable Residential and Compact Settlement Guidelines (2024) and the Urban Development and Building Height Guidelines for Planning Authorities (2018).
- Detract from the character and setting of this side of Harold's Cross Park.

## 4.0 Planning History

The following history pertains to the subject site:

PA Ref WEB1481/25 ABP-322636-25: Permission REFUSED for Demolition of buildings and construction of residential building containing a total of 26 No. apartments all with associated site works, bicycle store, landscaping and service. Reasons for refusal were as follows:

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 corner site opposite Harold's Cross Park, a public park, and in close proximity to historic buildings and protected structures, it is considered that, by reason of overbearing and overlooking and its design presentation, the proposed development would seriously injure the residential and visual amenities of the area and fail to integrate

successfully with the streetscape. 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 Settlements Guidelines (2024), would contravene Appendix 3 of the Dublin City Development Plan 2022-2028, and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that, by reason of the proposed 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 new build structures, the proposed development would seriously detract from the existing character of the area and would be contrary to the provisions of Policy BHA6 of the Dublin City Development Plan 2022-2028. Furthermore, it is considered that the proposed development would fail to conserve or enhance the special architectural character of the traditional urban village of Harold's Cross. The proposed development would seriously injure the visual and residential amenities of the area, and would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Relevant sections are considered as follows:

#### Specific Planning Policy Requirement 1 (SPPR 1)

(A) With the exception of social housing developments, social/affordable housing provided for under Part V the Act or schemes to provide housing for older persons where a specific mix of unit sizes may be required, such as in accordance with a Housing Need and Demand Assessment (HNDA), there shall be no restrictions within statutory plans in relation to the mix of unit sizes or types to be provided within apartment developments. There shall be no minimum or maximum requirements for apartments with a certain number of bedrooms.

(B) Where any such restriction or requirement is set out within a statutory plan, this Specific Planning Policy Requirement shall apply to any single apartment scheme and there shall be no restriction in relation to the mix of unit sizes or types and there shall be no minimum requirements for apartments with a certain number of bedrooms within the development, except in the circumstances set out above.

#### Specific Planning Policy Requirement 2 (SPPR 2)

The following minimum apartment floor areas shall apply, and statutory plans shall not specify minimum floor areas that exceed the minimum floor areas set out below:

- Studio apartment (1 person) 32sq.m
- 1-bedroom apartment (2 persons) 45 sq.m
- 2-bedroom apartment (3 persons) 63 sq.m
- 2-bedroom apartment (4 persons) 73 sq.m
- 3-bedroom apartment (4 persons) 76 sq. m

- 3-bedroom apartment (5 persons) 90 sq.m

The floor area parameters set out above shall generally apply to apartment schemes and do not apply to purpose-built and managed student housing.

*Specific Planning Policy Requirement 3 (SPPR 3)*

In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:

- (i) A minimum of 25% of units within a development shall be required to be dual aspect. Statutory plans shall not specify minimum requirements that exceed the requirements of this Specific Planning Policy Requirement.
- (ii) For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 25% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.

*Specific Planning Policy Requirement 4 (SPPR 4)*

Ground level apartment floor to ceiling heights shall be a minimum of 2.7m. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality.

*Specific Planning Policy Requirement 5 (SPPR 5)*

There shall be no requirement within statutory plans or within an individual scheme in respect of a minimum number of units per floor per core.

The proposed development is shown to have one stair /lift cores serving the apartments.

*Specific Planning Policy Requirement 6 (SPPR 6)*

The provision of new Communal, Community and Cultural facilities within apartment schemes shall only be required in specific locations identified within the development plan and shall not be required on a blanket threshold-based approach in individual apartment schemes.

*Appendix 1*

The standards for private amenity space are set out in Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments, Department of Housing, Local Government and Heritage, (2025).

The standards for communal amenity space are also set out in Appendix 1.

#### 5.2.2. **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 principal 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. **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 , 2023-2030.**

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 1<sup>st</sup> 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

### a) Assessment is generally supportive of the design/scale/massing.

- Welcomes housing in the city.
- Considers that materiality and reduction in height and density was a positive atmosphere.
- Accepted height/massing acceptable with surrounding area.
- Stated proposal exceeded apartment guidelines in terms of sequential requirements.
- Complies with table 3.1 of the compact guidelines.

### b) Impacts on Neighbours

- Planning Authority welcomed reduction in height proximate to nearest building.
- Only concern related to overlooking of 1 Shamrock Villas – pragmatic approach to achieve density in line with Section 15 of Development Plan allows for relaxation of standards.

### c) No objection from Water Services a Transport Section didn't raise major issues.

### d) Built Heritage – applicant provided expert report which stated didn't require retention.

- Satisfies Policy BHA6.
- Agree to have a condition included to re-use any materials found of high value.
- Claim that previous comments not taken on board is not true –
  - Amended design responds to previous refusal by proposing much more considered.
  - Reduces height and density.
  - Brakes up the massing.
  - Introducing step down to Shamrock Villas.

- All overseen

## 2. Response to item 1

- Conservation report noted while buildings in red line boundary appeared on OS Map:
  - No architectural/Cultural Value.
  - Not protected/Listed on NIAH.
  - Site not in a conservation area.
- Reason rests on Objective BHA6
  - Planning Authority are opaque in application of such.
  - Wording leaves an opening to provide evidence-based approach on case by case basis.
  - Similar re-development in area have included the demolition to historic building.
- Section 6 of submitted conservation report considers no architectural/cultural/social merit.
  - States that redevelopment would have a positive impact on the area.
  - Demonstrates 19<sup>th</sup> Century building no longer in-situ on site
  - Applicant repeatably demonstrated through expert advise that buildings are not original building as per 1<sup>st</sup> edition OS Map and no correlation with what was there.
  - Comprehensive development of site requires demolition:
    - Option B including retention of corner building and front façade.
    - Distinct fabric proposed to be re-used.
- Planning Authority are willing to take pragmatic approach to applying policies
  - WEB 2410/25 – Planning Officer stated scheme provided city housing and benefits that would outweigh on site retention of sports facility
    - Heavy emphasis placed on RSO2 – compact growth/urban regeneration.

- This emphasis appears to be missing in this instance.
- Examples of Demolition/Redevelopment in Harolds Cross
  - PA Ref 3779/22 – 146-145 Harolds Cross Road.
  - PA Ref 4729/17 – 280-288 Harolds Cross Road.

### 3. Response to item 2

- Planning Authority concern over units 7, 13, 14 and 20 proximate to 1 Shamrock Villas.
- Section 15.9.18 Dublin City Development Plan states overlooking may be overcome by design tools:
  - Proposal includes such in form of balcony balustrades.
  - Ensured habitable rooms not overlooked.
  - Option B includes further amendments.
- Section 15.3.3 – Flexibility on standards for infill.
- Section 15.13.4 – Emphasis on balanced approach to neighbouring privacy- allows for comprehensive backland where opportunity exists provided overlooking minimised.
- Section 3.3.1 of Compact Guidelines places a priority to deliver brownfield development in MASP area.
- SPPR1 considers separation distance below 16m acceptable where no direct opposing opes serving habitable rooms and privacy measures included.
- Question therefore arises what is considered undue or unacceptable.
- Option B proposed
  - Retaining north-eastern corner and building next to Shamrock Villas.
  - Winter gardens and planter boxes utilised.
  - Balconies relocated from east facing boundary.
  - Retention of traditional building facades.
- All deliver dual effect:

- Widen distance between proposal and existing building removing overlooking to outdoor terrace of Shamrock Villas.
- Preserving original building facades of Harolds Cross Road.
- Proposal already complies with Objective BHA6 as expert report submitted:
  - Retaining 2 storey building and façade of Harolds Cross Road would conserve and enhance the special architectural character of the traditional urban village of Harolds Cross.
- Addition acoustics insulation planned to prevent noise transmission.
- Overlooking mitigated through relocation of balconies/careful positioning of habitable rooms/inclusion of box planters screening.

Appeal sets out a rationale for the comprehensive re-development of the site which references the:

- Strategic location of the site and sustainable transport connections.
- Housing need and the efficient use of land.
- NPF Alignment.
- Design responds to context.
- Precedent and evolving character.
- Urban design benefits.
- Supported by policy.
- Economic viability.

## 7.2. Planning Authority Response

A response from the Planning Authority was received by the Commission on the 10<sup>th</sup> 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 3 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:

#### 7.3.1. Philip O'Reilly

- Reason for refusal fully justified and correct – admissible in every way.
- Call for decision to be upheld and permission refused.
- Site is restricted and constrained – consistent with history of refusal on site.
  - Excessive height/overdevelopment/mass all remain valid.
- Demolition without justification – existing structure makes historic and positive contribution:
  - In-situ 100 + years.
  - Virtue of scale/design/simplicity.
  - BHA6 presumption against demolition.
  - Incorrect that they have no architectural value.
  - Typical style/size of surrounding area.
  - Comprehensive development does not require demolition.
- Development referenced by the applicant (PA Ref 3779/22) was assessed under previous development plan.
- Development permitted at 280-288 Harolds Cross Road represents a Planning disaster.
- Overlooking – loss of residential amenity.

- Option B:
  - Should have been designed that existing façade is extended upwards and limited to 3 storeys.
  - Altered elevation to the 2 roads should be uniform/single profile/no setbacks/ no top floor effect/no use of different materials.
  - Roof effect proposed appears as a porta cabin place on top.
  - Requires design modifications and reductions in height along Kimmage Road.
  - Density – currently 4 units on site now increasing to 14 units representing overdevelopment of restrictive site.
- Rational for comprehensive development (pg. 19 of 1<sup>st</sup> Party Appeal)
  - Certain things that should not be considered acceptable:
    - Design response to context:
      - Height 4 stories not acceptable.
      - Predominantly 2/3 stories in area.
      - Setbacks indicate poor quality.
      - Uniform elevations present as more appropriate.
      - Does not appear as given to design of road frontage.
      - Materials proposed are not considered sympathetic.
  - Urban design brief – nothing positive about amended scheme does not strengthen street edge.
    - There is a need to enhance street profile.
    - Difference in roof profiling is visually obtrusive.

### 7.3.2. Harold's Cross Village Community Council

#### a) Introduction

- Refusal consistent with previous.

- 1<sup>st</sup> Party appeal does not address reasons for refusal.
- Welcome retention of no. 180 – consider partial retention of façade and demolition of remaining not justified:
  - Design approach does not integrate resulting in incongruous structure which would detract from area and impede upon amenities of the no. 1 shamrock villas.

b) Policy BHA6

- Wording is clear when it comes to demolition.
- Conservation report draws conclusion without providing clear basis for such.
- Previous refusal provided clear direction for any subsequent design.
  - Informed by a evidence based survey.
- Planning Officer considered conservation report to be of no architectural/cultural/social merit and that it did not address previous concerns raised – reiterated by Local Authority Archaeology Department.
- Request ACP uphold refusal – insufficient justification contrary to BHA6.

c) Overlooking – Shamrock Villas

- Consider that intention of SPPR 1 of Compact Guidelines in terms of reduced separation distances – only relevant in cases where toleration of some overlooking is not the intended outcome.
- Overlooking at this location can be overcome through appropriate design – not provided at this instance.

d) Proposed Modifications

- Retention of 180 is welcomed – partial demolition of remaining remains contrary to BAH6.
- Reference to Architectural Heritage Guidelines –

*The protection of a façade alone should generally only be considered where there is no surviving interior of any interest, for example where the building*

*has previously been gutted and the façade is the only remaining feature of the original historic building. (para 2.5.2)*

- Applicant does not provide any amended justification for demolition of the remainder of the building.
- Scale and form of would benefit from a more coherent design approach that appropriately integrates with existing structures more seamlessly:
  - Imposition of previous perimeter block alongside retention of historic structure is poorly resolved and incongruous.
  - Proximity of unit 11 and 16 will still cause overlooking.
- Note issues raised by Traffic Section :
  - Car free development only providing for minimal cycle parking – no compensation measures.
  - Amened scheme does not address concerns raised.

### 7.3.3. Paula Russell and Michael Roche

#### 1. Policy Objective BHA6.

- Consider Dublin City applicant policy clearly and correctly.
- It was found information did not demonstrate building has no special interest or merit.
- Should be applied on a case by case basis.
- Conservation architect simply states the buildings have no merit with no evidence provided.
- No analysis of an archaeological features that may be on site.
- Previous cases referenced were accompanied by detailed conservation reports.
- No archaeological report contrary to policy objects as set out in Chapter11 of the City Plan – refer to archaeological report of the Local Authority.
- Request that refusal be upheld.

#### 2. Building design/Overlooking

- Increased density and scale on infill sites are only permissible as outlined in compact guidelines when challenges of overlooking have been overcome through careful design – not achieved in this instance.

### 3. Building design, Height and Form and Modification

- Original proposal:
  - Fails to respond to existing build environment.
  - Completely overscale.
  - Makes no attempt to integrate.
  - Negative contribution to urban neighbourhood.
- Reference to Appendix 3 of the Dublin City Development Plan
  - Existing buildings immediately adjacent are 2 stories in height and cottages opposing single storey.
  - Proposal extends to 4 stories – not in keeping.
- Amended design – consider it would still detract from visual amenity.
  - Remains unchanged front to Kimmage Road.
  - Extends to 13.4m adjacent to a 2-storey dwelling.
  - Important view along Harolds Cross Park remain dominated by 4 storey elements:
    - Will appear incongruous behind the newly proposed design of 3 storey components.
  - Retention of historic structure is welcomed – consider overall design of the scheme requires a more considered and coherent overall design approach that appropriately integrated the existing structures in a more seamless and considered way:
    - Issue of overlooking remains.

## 8.0 Assessment

Having reviewed the 1<sup>st</sup> 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.
- Amended Scheme
- Response to Refusal No. 1 – Demolition and Policy Objective BHA6
- Response to reason No. 2 - Impact on Residential Amenity.

I note that the 1<sup>st</sup> Party Appeal has been accompanied by an amended scheme, referenced as option B, which provides for 16 no. apartment units and proposes to retain the existing building which is situated adjacent to Shamrock Villas and the façade of the building addressing Harold Cross Road. I have set out a detailed description of the amended scheme under section 2.2 of my report above.

### 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. Harold Cross is not included within the list that identifies Key Urban Villages as set 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. Amended Scheme

- 8.2.1. The 1<sup>st</sup> party appeal has been accompanied by an amended scheme which is described in detail under Section 2.2 of my report above. The amended scheme has omitted 4 of the previously proposed units to now provide for a scheme of 16 no residential units, with 2 no. existing units being retained in no. 1 Shamrock Villas.
- 8.2.2. The amended proposal has retained the 4 storey, or 3 storeys above ground floor, elevation where the site addresses the Kimmage Road Lower which steps down to 3 storeys as it addresses the adjoining building to the south-west, no. 4 Kimmage Road Lower. The heights of no. 178-180 Harolds Cross Road remains unchanged as 2 storeys in height and it is proposed to include a 'pop up' 3<sup>rd</sup> level on the remainder of the buildings addressing Harolds Cross Road with the ground and 1st floor facades being retained.
- 8.2.3. The Planning Officer within their assessment of the original scheme submitted acknowledged the reduction in the height from the scheme previously refused under ABP-322636-25 which was considered welcomed and stated further that the Planning Authority would not see any objections to the proposed height at this location, which is a prominent corner site, opposite Harold's Cross Park.
- 8.2.4. I would concur with the assessment of the Planning Authority and consider that the height proposed would be acceptable at this location. However, I would have concerns over the overall design approach undertaken to the development and the visual impact it may have upon the wider area. Given that this area has been designated as a priority to be included as an Architectural Conservation Area, I consider that the material finishes and design ethos to be significantly lacking in any level of architectural merit and may therefore require some further consideration.
- 8.2.5. While the intention to retain no. 178-180 Harolds Cross Road and the façade of the building addressing Harolds Cross Road is welcomed, and discussed further in the next section of my report, I would have significant concern over the assimilation of the retention of this elevation against the elevation treatment proposed along Kimmage Road Lower. The simplicity of the retained elevation should be replicated along the North-west elevation and consider that the multiple materials proposed along Kimmage Road Lower has now created a jarring affect.

- 8.2.6. Furthermore, the inclusion of the 3rd floor pop up feature finished in what appears to be a zinc clad, above the retained facade on Harolds Cross Road gives a top-heavy effect to the building which undermines the intension to retain the façade of such. Overall, I consider the use of 2 no. brick colours together with a grey rendered and zinc cladding to be overly visually troubling on the elongated elevation addressing Kimmage Road Lower and is visually obtrusive and incongruous with both the retained façade of the Harolds Cross Road elevations and the remaining buildings situated along Kimmage Road Lower.
- 8.2.7. With regard to density, the appeal site has a stated area of c.0.091ha and permission is being sought for 16 no. apartment units in the amended scheme which would generate a density of 175 units per hectare.
- 8.2.8. Table 1 of appendix 3 sets out the net density ranges for development within the City. It sates 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.
- 8.2.9. I note that Table 3 of Appendix 3 sets out key criteria to justify densities higher than the prevailing development within the Sur rousing area. 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:

<p>Criteria 1 – To Promote Development with a Sense of Place and Character</p>	<p>The proposed development would not integrate well with the streetscape as it would exceed the prevailing building height in the immediate area. The design is distinctive but is monolithic and fails to respect the existing character of the area. The uses of numerous materials appears to be visually jarring.</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>
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Criteria 2 – To Provide Appropriate Legibility	In my opinion, similar to my assessment above, the proposal, due to the materiality 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 finishes.
Criteria 3 - To provide Appropriate Continuity and Enclosure of Streets and Spaces	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 opens 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.
Criteria 4 - To provide well connected, high quality and active public and communal spaces.	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.  Having regard to the orientation of the proposed communal area which is situated at ground floor level I am of the opinion that they may not offer any level of amenity.
Criteria 5 - To Provide High Quality, Attractive and Useable Private Spaces	Private outdoor spaces on the rear elevation would overlook existing dwellings and private open spaces due to insufficient separation distances of 3m between opposing terraces/balconies. This concern is addressed further within my report below.

Criteria 6 - To Promote Mix of Use and Diversity of Activities	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.
Criteria 7 - To ensure high quality and environmentally sustainable buildings.	It is considered that one would be required in 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.  A sustainability report/energy statement is received with the application.
Criteria 8 - To Secure Sustainable Density, Intensity at Locations of High Accessibility	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.  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.
Criteria 9 - To Protect Historic Environments from Insensitive Development	The design and layout of the proposed development has failed to adequately address the setting and character of the surrounding area which include for the historic setting of Mount Jermoe 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.

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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- 8.2.10. 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.
- 8.2.11. However, the Sustainable and Compact Settlement Guidelines (2024) Chapter 3, Table 3.1 sets out a range of acceptable densities depending on the character of the area. Harolds Cross is located outside the Canal ring and would come under the City – Urban Neighbourhood category, where densities in the range of 50 to 250 ph would generally be applied. As such, the density of the both the originally proposed and amended schemes could be justified in terms of Table 3.1 of the Compact Guidelines.
- 8.2.12. I note that the Dublin City Development Plan 2022-2028 has not yet been varied to include for the provisions set out within the Compact Guidelines. However, should the Commission seek to overturn the decision of the Planning Authority and grant permission for the amended scheme, this would be permissible in under Section 37(2)(A) of the Planning and Development Act, 2000 (as amended).
- 8.2.13. Overall, I consider that while the retention of no. 178 – 180 Harolds Cross Road together with the façade of the building as it address Harolds Cross Road and the reduction in height from the previously refused scheme as per ABP-322636-25, is welcomed given the location of site at a prominent location within Harold Cross which is listed under section 11.5.2 of the Dublin City Plan 2022-2028 as a priority area to become an Architectural Conservation Area within the lifetime of the Plan, that both the proposed and amended schemes would be visually obtrusive and incongruous with the established streetscape along both Harolds Cross Road and Kimmage Road Lower and would given rise to a negative impact upon the current level of visual amenities enjoyed at this location.
- 8.2.14. I consider that the scheme would require significant amendments to overcome such concerns that would not be achievable through a compliance condition.

### 8.3. Response to Refusal No. 1– Demolition and Policy Objective BHA6

- 8.3.1. The 1st reason for refusal set out by the Planning Authority relates to the demolition of the existing buildings on site and the lack of justification provided which it was considered was contrary to Policy BHA6 – Buildings on Historic Maps of the Dublin of the Dublin City Plan 2022-2028.
- 8.3.2. 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 1<sup>st</sup> Edition Ordnance Survey 6 inch Map which I viewed at [Irish Townland and Historical Map Viewer](#) on the 29<sup>th</sup> August 2025.
- 8.3.3. A Conservation Report was submitted with the application documents, prepared by a Grade 1 Conservation Architect. I note that on comparison this report remains unchanged, with the exception of the development description which has been amended accordingly, from what was submitted with the application made under ABP-322636-25. The report 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.’*
- 8.3.4. 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.
- 8.3.5. The Conservation Officer of the Local Authority did not comment on the amended scheme submitted and this is referenced by the Planning Officer in their report. The

Planning Officers report stated that *'a conservation report was not received from Dublin City Council's Conservation Department, however a report was submitted for the previous application on site. This report noted that Harold's Cross has been prioritised as a future Architectural Conservation area in the current Dublin City Council Development Plan 2022-2028.'*

- 8.3.6. I accept that while there was no conservation report in this instance, I consider given the substantive matter of demolition of the existing buildings on site is still proposed I consider the comment in relation to such remain relevant. The Conservation officer noted within their previous report, that the conservation report submitted, which as stated above remains unchanged from what was submitted on the previous application, provided insufficient analysis of the historic form, fabric and significance of the extant terraced structures which have been amalgamated as a large public house and whilst it was clear from the submitted images that the historic structures have been remodelled and modernised, the external form and original boundary plots remain legible.
- 8.3.7. The report of the Conservation Officer failed to accept the findings of the report submitted and strongly disagreed with the assertion that the former terraced houses have no architectural, cultural or social merit but considered that they in fact form a characterful urban group located on a dominant corner that is highly visible within the immediate area.
- 8.3.8. The 1<sup>st</sup> 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.
- 8.3.9. 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.

- 8.3.10. 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 1<sup>st</sup> 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.
- 8.3.11. 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 again failed to give recognition of this intention of the Planning Authority
- 8.3.12. Having reviewed the Conservation Report submitted I agree with the report of the planning officer of the local authority and consider that the assessment submitted has again 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 and provided an opinion of the merit of buildings as opposed to as assessment supported by evidence.
- 8.3.13. I note that the amended scheme submitted as part of the 1<sup>st</sup> party appeal which I have discussed under Section 2.2 and 8.2 of my report above has indicated the retention of no.178-180 Harolds Cross Road and the retention of the front façade which addresses Harolds Cross Road. The amended plans have not been accompanied by an updated conservation report.
- 8.3.14. While I welcome this proposal to retain this part of the building I consider given that the applicant is still seeking to demolish a large part of a building which appeared to be on the 1836-44 1<sup>st</sup> Edition Ordnance Survey 6 inch Map, again as previously noted now in a modified in form, and in the absence of a more comprehensive conservation report which provides for a robust argument as to why the demolition of such is justified, the amended scheme still fails to comply with the requirements of Policy BHA6 of the City

Development Plan. I therefore recommend that the decision of the Planning Authority be upheld and permission be refused.

8.3.15. The applicant has been provided on numerous occasions from the assessments undertaken by the Planning Authority to date and also by An Coimisiun Pleanála as what would be required to be presented within a Conservation Report in order to demonstrate compliance with the requirements of Policy BHA6 of the City Development Plan but has failed to adhere to or provide such.

#### 8.4. **Response to Refusal No. 2 – Impact on amenity.**

8.4.1. The second reason for refusal of the Planning Authority relates to negative impact upon the residential amenities of the adjoining properties with a specific reference to with number 1 Shamrock Villas in terms of overlooking.

8.4.2. The appellant contends that the Dublin City Development Plan 2022-2028 makes provision for issues of overlooking to be overcome and also provides flexibility in standards for infill developments. Reference is made specifically to Sections 15.9.18 – Overlooking and Overbearance, Sections 15.13.3 – Infill/Side Garden Housing Developments and Section 15.13.4 – Backland Housing. It is argued that the amended scheme has provided for additional measures to overcome the Planning Authorities Concern and that overlooking is mitigated within option B through relocation of balconies, the careful positioning of habitable rooms and inclusion of box planters screening.

8.4.3. Further reference is made by the appellant to Section 3.3.1 of the residential compact guidelines which places a priority to deliver brownfield development in MASP area ad SPPR 1 – Separation Distances of same. It is contended that the Compact Guidelines considers separation distance below 16m acceptable where no direct opposing open serving habitable rooms and privacy measures are included is acceptable and that the amended scheme has achieved this.

8.4.4. In the first instance I note that Sections 15.13.3 and Section 15.13.4 of the Dublin City Development Plan are not relevant in this instance as they relate to infill dwellings and not larger apartment schemes as being proposed as part of this scheme. I would accept the concern raised by the planning authority and consider that the original scheme would give rise to a negative impact on the amenities of properties situated to

the south-east along Shamrock Villas, with the amenity space serving no. 1 Shamrock Villas being significantly overlooked. The balcony proposed to serve unit no. 20, situated at second floor, is set only c.2m from the shared boundary with Shamrock Villas.

- 8.4.5. The Residential Compact Guidelines state under SPPR 1 that separation distances below 16m should only be considered when suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces. This was not the case in the original scheme.
- 8.4.6. The amended scheme, option B, has been amended at 1<sup>st</sup> and 2<sup>nd</sup> floor by extending the building so that it wraps around the western boundary of the site and relocating the balcony serving units no. 16 and no. 11 so that they are now set a maximum of c.2.9m which reduces to c.1.5m from the common boundary with Shamrock Villas. Both of these balconies are provided with glass balustrades which are indicated on plan as being c.500mm in height and finished with glazing.
- 8.4.7. I do not accept the argument put forward by the appellant in this instance and consider that even in the amended form the proposed development would still give rise to an undue issue of overlooking of the private amenity space serving no. 1 Shamrock Villas. The floor plans submitted with the appeal indicate that the balcony serving these units are stepped forward of the balconies serving the remaining units. I would also have some concern of the perception of overlooking from the gangway which provides access to the units on the first and second floor. While the appellant has made reference to the use of box planters screening plans submitted with the amended scheme have not indicated where they are proposed to be provided. Furthermore, I do not consider that box planters could be relied on as a mitigation measure as they could easily be relocated by any future potential resident of these units.
- 8.4.8. I consider that the reference within SPPR 1 to suitable privacy measures which have been designed into the scheme would be a more permanent features that could not be removed such as deflected windows or the like. Furthermore in the absence of details in terms of the scale of the proposed box planters, I would have concern that they may reduce the area private open space serving the subject apartments below the standard required. Therefore, the provision of a reduced separation distance as provided in this instance cannot be justified in terms of SPPR 1 of the Residential Compact Guidelines.

- 8.4.9. Furthermore, the amended scheme now provides for a blank elevation along the south-eastern corner of the site which extends to c.9.9m in height which directly abuts the private amenity space serving no. 1 Shamrock Villas. This will now also give rise to issues of overbearance upon the private amenity space.
- 8.4.10. Overall, even in its amended form I consider that to permit permission for the development would give rise to significant levels of overlooking and overbearance upon the private amenity space serving No. 1 Shamrock Villas and I therefore recommend that the decision of the Planning Authority be upheld.

## 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 20 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. 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, 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.
2. The proposed development by virtue of the restrictive nature of the site and the proximity of a number of balconies and access routes situated above ground floor level where the separation distance is significantly limited and would not comply with the requirements of SPPR 1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, would give rise to significant levels of overlooking and overbearance upon the private amenity space serving existing dwellings within the vicinity, namely no. 1 Shamrock Villas, and would therefore seriously injure the current level of residential amenity of the area and be contrary to the proper planning and sustainable development of the area.
3. Having regard to the location of the appeal site at a prominent location within Harold Cross which is listed under section 11.5.2 of the Dublin City Plan 2022-2028 as a priority area to become an Architectural Conservation Area within the lifetime of the Plan, that both the proposed scheme would be visually obtrusive and incongruous with the established streetscape along both Harolds Cross Road and Kimmage Road Lower and would give rise to a negative impact upon the current level of visual amenities enjoyed at this location. Therefore, to permit the proposed development 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

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Kathy Tuck

Planning Inspector

29<sup>th</sup> April 2026

# Appendix 1

## EIA Pre-Screening

<b>Case Reference</b>	<b>PL-500754-DS-26</b>
<b>Proposed Development Summary</b>	Demolition of buildings including basement on site, construction of residential building containing 20 No. apartments and all associated works.
<b>Development Address</b>	174-180 Harolds Cross Road, Harolds Cross, Terenure, Dublin 6W.
<b>In all cases check box /or leave blank</b>	
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (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.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>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?</b>	
<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.	
<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.	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

<b>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)?</b>	
Yes <input type="checkbox"/>	
No <input checked="" type="checkbox"/>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Appendix 2

### EIA Preliminary Examination

<b>Case Reference</b>	<b>PL-500754-DS-26</b>
<b>Proposed Development Summary</b>	Demolition of buildings including basement on site, construction of residential building containing 20 No. apartments and all associated work.
<b>Development Address</b>	174-180 Harolds Cross Road, Harolds Cross, Terenure, Dublin 6W.
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<p><b>Characteristics of proposed development</b></p> <p>(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>	<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>
<p><b>Location of development</b></p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>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>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>

	The development is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan.
<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	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.
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.

**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 20 no. apartments 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 Nature 2000 site; and
- Taking into account appropriate assessment screening report submitted with the application.