



An
Coimisiún
Pleanála

Inspector's Report PL-501171-DS-26

Development	Demolition of Lyster's Bar and construction of a 5-storey building comprising 40-bed student accommodation with ground floor commercial space and all associated site works.
Location	236 - 238 Harold's Cross Road, Dublin D6WRF44
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	WEB1156/26
Applicant(s)	Hermitage Property Group
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party Normal Planning Appeal
Appellant(s)	Hermitage Property Group
Observer(s)	Harold's Cross Village Community Council Philip O'Reilly Mark Kelly

Susan O'Brien
Michael & Louise Mansfield

Date of Site Inspection

8th July 2026.

Inspector

Kathy Tuck

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1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.073ha and is situated at 236 - 238 Harold's Cross Road Dublin 6W. Harolds Cross Road is located 4km to the south of Dublin City Centre and c.1km to the west of Rathmines. The site is also located at a prominent junction of Harolds Cross Road and Leinster Road.
- 1.2. The appeal site currently comprises of a single storey public house 'Lysters'. The building situated immediately to the south of the appeal site comprises of a 3 storey apartment building which is provided with private amenity space and a parking area to the rear which can also be accessed from Casimir Court via Casimir Avenue. The eastern boundary is formed with a single storey building which is occupied by a commercial property. The rear boundary is formed partly with the private amenity space serving Casimir Court and Mountain View Avenue.

2.0 Proposed Development

- 2.1. This is an application for permission for a development comprising the demolition of the existing building 'Lyster's Bar' which is a single story building and the construction of a 5-storey new building comprising 40-bed student accommodation with ground floor commercial space.
- 2.2. The proposed building expands the entire width of the site where it addresses Harolds Cross Road and has a principal depth of c.14.4m which extends to 31m along the northern boundary of the site. The building has a height of c.16.1m along the front elevation with the 5th floor being set back c.700m from the main elevation.
- 2.3. Material finishes indicate the use of red/brown multi-stock brick forming the main body of the building, lighter brickwork and stone detailing at ground floor, stone banding and cills, bronze-toned metal cladding to the setback fifth storey and dormer Windows.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a decision to refuse planning permission on the 18th March 2026 for the following reasons:

1. Having regard to the site's prominent location at the termination of the view from Leinster Road within a residential conservation area containing Protected Structures, it is considered that the proposed development, by reason of its height, scale, design and massing, would appear unduly dominant and overbearing in this sensitive context. The development would also fail to respond positively to its receiving environment and would be unduly overbearing in the street context, contrary to the Sustainable Residential and Compact Settlements Guidelines (2024). The proposal would further conflict with Policy BHA9 and Appendix 3 of the Dublin City Development Plan 2022-2028. The development would therefore seriously injure the visual and residential amenities of the area and be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location and proximity of a number of windows on the southern elevation to the adjoining residential properties particular to the private amenity space of number 240 Harolds Cross Road, it is considered that the proposed development would result in overlooking and an overbearing impact when viewed from this property. The proposal would therefore seriously injure the visual and residential amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes the site location, provides details of the development proposed, sets out the relevant zoning and policies from the Dublin City Development Plan 2022-2028, sets out relevant planning history, sets out details of reports received from internal and external consultees, a detailed summary of the observations received and also provides for a screening for AA, EIA and Flood Risk Assessment.

Section 11 of the report provides for a detailed assessment of the proposed development and the concerns raised reflect that of the reasons for refusal issued by the Planning Authority.

3.2.2. Other Technical Reports

Transportation Planning Division – Report dated 2nd March 2026.

Seeking the following further information:

- Demonstrate how the servicing requirements of the proposed development can be adequately met.
- Demonstrate the feasibility of accommodating more cycle parking at ground floor level. A minimum of 5% of the total cycle parking provision shall be designed to accommodate non-standard bicycles.
- Clarify the presence, extent and legal status of any established right-of-way through the subject site providing rear access to properties fronting Harold's Cross Road via Mountain View Lane.
- Update CEMP to include the following - Submit a preliminary Construction Traffic Management Plan (CTMP); Clearly demonstrate how construction-related deliveries, loading/unloading and traffic movements will be managed so as to avoid obstruction of the footpath or cycle lane; Clarify the proposed vehicular access arrangements to facilitate construction traffic and on-site parking; demonstrate that construction traffic arrangements will not adversely impact the operation of the surrounding transport network.
- Investigate the potential to upgrade the environment of the street.

Drainage Division – Report dated 5th February 2026

Seeking the following further information:

- A Basement Impact Assessment assessing the impact of the proposed basement construction on the surrounding environment and structures shall be submitted.
- Provide an integrated green & blue roof, that facilitates storage and controlled release of rainwater (attenuation) at roof level.
- Recommended that the applicant consults the Drainage Division of Dublin City Council prior to the submission of Additional Information.

3.3. Prescribed Bodies

Uisce Éireann – dated the 11th February 2026

It is stated that the applicant has engaged with Uisce Éireann via a Pre-Connection Enquiry and Uisce Éireann can confirm that a Confirmation of Feasibility has been issued to the applicant advising that (water/ wastewater) connection(s) are feasible.

The report notes no objection subject to condition.

3.4. Third Party Observations

The Planning Officer provides for a detailed summary of all submissions received under section 10 of their report. I note that the concerns raised reflect those raised by observers to this appeal which I have provided a details summary of under section 7.4 of my report below.

4.0 Planning History

Appeal Site

PA Ref 1153/07 Permission REFUSED for demolition of the existing public house and the construction of 2 no 5 /4 storey buildings providing for 1 no public house, 1 no restaurant, 1no retail unit, office space and 12 no 1 & 2 bed apartments. The reasons for refusal were as follows:

1. The proposed development by reason of excessive height, scale, mass, bulk, and plot ratio would constitute overdevelopment of restricted urban lands and in addition by reason of broad plot width, use of materials and colour sited in a prominent location fails to create a strong visual connection with adjoining buildings in the streetscape or to complement the established pattern of development in the immediate environs along Harolds Cross Road. The proposed development is therefore considered to be contrary to the urban design objectives and development standards of the Dublin City Development Plan 2005-2011 and would thus

seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

2. The proposed development by reason of scale, mass, height and siting would result in overlooking and create an overbearing impact to the rear of existing residential property in the area. The proposed development therefore fails to comply with the provisions of the Dublin City Development Plan 2005-2011 and the DOEHLG Guidelines for Planning Authorities on Residential Density, would seriously injure the residential amenities of the area and is considered to be contrary to the proper planning and sustainable development of the area.
3. The proposed development by reason of the provision of insufficient and inadequate private open space and insufficient car parking spaces to serve the proposed development constitutes overdevelopment of a restricted urban site and is therefore contrary to the development standards of the Dublin City Development Plan 2005-2011. The proposed development would thus seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

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.

Section 6.6- Housing

Sub-heading (page 94) 'Students' states that the demand pressures on the available supply of rental accommodation in urban areas in particular. In the years ahead, student accommodation pressures are anticipated to increase. The location of

purpose- built student accommodation needs to be as proximate as possible to the centre of education, as well as being connected to accessible infrastructure such as walking, cycling and public transport. Student accommodation also contributes to the financial, cultural and social fabric of regions, cities and towns. The adaptive reuse of existing buildings and brownfield sites for student accommodation can assist with the reduction of vacancy and dereliction, thereby promoting vitality and vibrancy in settlements, in support of Town Centre First principles. The National Student Accommodation Strategy supports these objectives.

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.

5.1.2. Delivering Homes, Building Communities 2025-2030: An Action Plan on Housing Supply and Targeting Homelessness

In June 2025, Government published the Design Guide for State Sponsored Student Accommodation²⁸. It defines best practices and aims to ensure value for money for the State, while supporting the delivery of additional student accommodation. It also

promotes the development of modern student accommodation that is functional, sustainable, maintainable, flexible, safe, and architecturally well.

Section 7.7 Building More Purpose-Built Student Accommodation

Government is committed to a long-term student accommodation strategy focused on increasing the supply of student accommodation in line with demand. The strategy aims to create an environment where accommodation cost and availability does not act as a barrier to attending third level education. It also aims to increase the supply of student specific accommodation, reducing reliance on the private rental market and increasing housing availability for private individuals and families.

The Student Accommodation Strategy 2025–2035, which will be published shortly, will set out Ireland’s national policy to support access to appropriate housing for full-time undergraduate and postgraduate students attending publicly funded Higher Education Institutions. The Strategy’s objective is to increase the supply of new student accommodation beds through two pillars - supply and viability measures and to provide targeted affordability supports for priority groups identified under the National Access Plan.

5.2. Regional Policy

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

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

The RSES seeks to promote compact urban growth by making better use of under-used land and buildings within the existing built up urban footprint and to drive the delivery of quality housing and employment choice for the Region’s citizens. The RSES seeks to build a resilient economic base and promote innovation and

entrepreneurship ecosystems that support smart specialisation, cluster development and sustained economic growth.

Section 9.3 of the RSES, Housing and Regeneration, notes that recent trends in the delivery of specialised housing typologies such as student accommodation, build to let developments and shared accommodation is indicative of the change in approach that will be necessary to accommodate the changes in demand and demographics in the Region into the future, and the RSES needs to reflect this.

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:

Section 3.2: Notes that when calculating net densities for shared accommodation, such as student housing, four bed spaces shall be the equivalent of one dwelling.

Section 3.3: Includes Table 3.1 defining categories of urban areas within Dublin City. 'City – Urban Neighbourhoods' comprises four types of urban areas, sub-items (i)-(iv), compact medium density residential neighbourhoods around the City Centre, strategic and sustainable development locations, town centres designated in a statutory development plan, and lands around existing or planned high-capacity public transport nodes or interchanges.

Section 3.4: Outlines a two-step density refining process of the City category, based firstly on a determination of accessibility (as per definitions in Table 3.8) and secondly on five site-specific criteria (impacts on character, historic environment, protected

habitats and species, daylight/ sunlight of residential properties, and water services capacity).

Section 5.3: Includes SPPRs 1-4 on separation distances, private open space, car and cycle parking, and policy on open space and daylight. As student housing is a form of shared accommodation, these residential standards are not directly applicable.

5.3.2. Planning Design Standards for Apartments, Guidelines for Planning Authorities, 2025

The Planning Design Standards for Apartments Guidelines for Planning Authorities, 2025 came into effect on 08th July 2025. This application was submitted to the Planning Authority on the 23rd July 2025 and as such are the relevant guidelines in this instance.

Section 5.2 of the guidelines relates to 'Purpose-Built Student Accommodation'. It states that the Department of Further and Higher Education, Research, Innovation and Science is developing "The Design Guide for State Sponsored Student Accommodation 2025" to inform the approach to Student Accommodation. The Guide is an iterative framework that reflects best practices and supports the efficient delivery of state sponsored student accommodation. It is also intended, where appropriate, that the standards contained within the Guide can inform the planning and design of off-campus forms of student accommodation that are led by the private sector. I have referred to this document below.

SPPR 8 states:

- A. (i) There shall be no requirement or restriction in relation to the provision of en-suite bathrooms for single study bedrooms within Purpose Built Student Accommodation schemes.
- (ii) The minimum required area for a single study bedroom without en-suite facilities is 8sqm and the minimum required area for a single study bedroom with en-suite facilities is 11.5sqm; and statutory plans may not set out minimum required areas that exceed the minimum required areas set out within this SPPR.
- (iii) The minimum space requirements for kitchen/dining/living areas serving 10 and 12 persons are 3.6 sqm and 3.3 sqm per person, respectively; and statutory plans may not set out minimum required areas that exceed the minimum required areas set out within this SPPR.

- B. Where any other requirement or restriction is set out within a statutory plan, this Specific Planning Policy Requirement shall apply to any single student accommodation scheme.

5.3.3. Urban Development and Building Heights - Guidelines for Planning Authorities – (DoHPLG, 2018).

The Guidelines are intended to set out national planning policy guidelines on building heights in urban areas in response to specific policy objectives set out in the National Planning Framework and Project Ireland 2040. There is a presumption in favour of high buildings at public transport nodes and state that it is Government policy to promote increased building height in locations with good public transport services.

- SPPR 1 seeks to support increased building height and density in locations with good public transport accessibility to secure the objectives of the NPF and RSES and shall not provide for blanket numerical limitations on building height.
- SPPR 3 states It is a specific planning policy requirement that where;
 - (A) (1) an applicant for planning permission sets out how a development proposal complies with the criteria above (section 3.2); and
 - (2). the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.
- (B) In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme

(C) In respect of planning schemes approved after the coming into force of these guidelines these are not required to be reviewed.

5.4. Climate Action Plan 2025

The 2025 Climate Action Plan builds upon last year's 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 2025 Plan provides a roadmap to deliver on Ireland's climate ambition. It seeks for the continued cross-organisational cooperation which will help to deliver Ireland's climate goals and improved monitoring and reporting structures (a lower number of high impact actions) should help streamline the reporting process and make it easier to identify challenges as they arise

5.5. National Biodiversity Plan 2023-2030

The National Biodiversity Plan sets the national biodiversity agenda for the period 2023-2030. The plan strives for a "whole of government, whole of society" approach to the governance and conservation of biodiversity. 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 plan identifies 5 objectives as follows:

1. Adopt a Whole-of Government Whole-of-Society Approach to Biodiversity;
2. Meet Urgent Conservation and Restoration Needs;
3. Secure Nature's Contribution to People
4. Enhance the Evidence Base for Action on Biodiversity; and
5. Strengthen Ireland's Contribution to International Biodiversity Initiatives.

5.6. Other Guidance

5.6.1. National Student Accommodation Strategy 2017 (DHPLG).

This plan emphasises the need to increase the supply of purpose-built student accommodation (PBSA) to meet the existing and increasing housing demand from both domestic and international students attending the country's Higher Education Institutions, and thereby also reducing the demand from students for accommodation in the private rental sector. The NSAS identifies that the demand for PBSA currently outstrips supply and predicts this trend will continue to 2024. It is noteworthy that in the Dublin area the NSAS estimates that by 2024 the supply of PBSA will be 28,806 bedspaces and the demand will be for 42,375 bedspaces, thereby representing a shortfall in provision of some 13,569 bedspaces.

5.6.2. Design Guide for State Sponsored Student Accommodation, 2025.

This document provides guidance on site planning requirements, and specific requirements on the residential accommodation (arrangement, floor areas), communal facilities and amenities (types, floor areas, design), and internal design and layout.

5.7. Dublin City Development Plan 2022-2028

5.7.1. Land Use Zoning

The subject site is zoned Z4 - Key Urban Villages and Urban Villages 'To provide for and improve mixed-services facilities'. Under the Z4 zoning, 'student accommodation' is an open for consideration use. Under the Z4 zoning 'shop' is a permissible use.

Harolds Cross has been identified in the Core Strategy (see Chapter 2 Table 2-14 DCDP 2022-2028) as one of the areas for a Local Area Plans and/or Village Improvement Plans (VIPs), to be progressed over the lifetime of the Plan.

Relevant Sections of the Development Plan:

5.7.2. **Chapter 3 Climate Action**

- CA8: Climate Mitigation Actions in the Built Environment
- CA9: Climate Adaptation Actions in the Built Environment
- CA10: Climate Action Energy Statements

5.7.3. Chapter 4 Shape and Structure of the City

- SC8: Development of the Inner Suburbs
- SC10: Urban Density
- SC14: Building Height Strategy
- SC15: Building Height Uses
- SC16: Building Height Locations
- SC 17: Building Height
- SC 18: Landmark/Tall Buildings
- SC 19: High Quality Architecture
- SC 21: Architectural Design
- SC 23: Design Standards

5.7.4. Chapter 5 Housing

- QHSN1: National and Regional Policy
- QHSN2: National Guidelines
- QHSN3: Housing Strategy and HNDA
- QHSN10: Urban Density
- QHSNO11: Universal Design
- QHSN36: High Quality Apartment Development
- QHSN44: Build to Rent/Student Accommodation/Co-living Development
- QHSN45: Third-Level Student Accommodation
- QHSN47: High Quality Neighbourhood and Community Facilities
- QHSN48: Community and Social Audit

5.7.5. Chapter 6 City Economy and Enterprise

- Policy CEE2 Positive Approach to the Economic Impact of Applications
- Policy CEE21 Supply of Commercial Space and Redevelopment of Office Stock

- Policy CEE32 Education and the City Economy

5.7.6. **Chapter 8 Sustainable Movement and Transport**

- Objective SMT010

5.7.7. **Chapter 9 Sustainable Environment Infrastructure and Flood Risk**

5.7.8. **Chapter 11 Built Heritage and Archaeology**

- Section 11.5.5 Archaeological Heritage
- BHA26 Archaeological Heritage

5.7.9. **Chapter 15 Development Standards**

- Section 15.4.1 Healthy Placemaking
- Section 15.4.2 Architectural Design Quality
- Section 15.4.3 Sustainability and Climate Action
- Section 15.4.4 Inclusivity and Accessibility
- Section 15.5.1 Brownfield, Regeneration Sites and Large-Scale Development
- Section 15.5.4 Height
- Section 15.5.5 Density
- Section 15.5.6 Plot Ratio and Site Coverage
- Section 15.5.7 Materials and Finishes
- Section 15.5.8 Architectural Design Statements
- Section 15.5.9 Models and Photomontages
- Section 15.6 Green Infrastructure and Landscaping
- Section 15.7.3 Climate Action and Energy Statement

5.7.10. **Section 15.13.1 Student Accommodation**

- 15.13.1.1 Unit Mix
- 15.13.1.2 Daylight and Sunlight
- 15.13.1.3 Communal Facilities
- 15.13.1.4 Car Parking / Bicycle Parking

- 15.13.1.5 Temporary Use as Tourist Accommodation
- Section 15.13.1 Student Accommodation states:

The City Council supports the provision of high-quality, professionally managed, purpose-built third-level student accommodation, either on campus or in accessible locations adjacent to quality public transport corridors and cycle routes, in a manner which respects the residential amenities of the locality.

5.7.11. Relevant Appendices:

- *Appendix 3: Achieving Sustainable Compact Growth Policy for Density and Building Height in the City.*
- *Appendix 5: Transport and Mobility: Technical Requirements.*
- *Appendix 9: Basement Development Guidelines.*
- *Appendix 11: Technical Summary of Dublin City Council Green & Blue Roof Guide (2021).*
- *Appendix 16: Sunlight and Daylight.*

5.8. Natural Heritage Designations

The subject site is not located within or is not adjoining any Natura 2000 Sites. The subject site is located c.4.93km 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.919.68m to the south of the Grand Canal pNHA (Site Code pNHA 0002104).

6.0 EIA Screening

The scale of the proposed development does not exceed the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10), 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

The Commission received a 1st Party Appeal against the decision of the Planning Authority to refuse permission. The grounds of the appeal can be summarised as follows:

Core issue of refusal – Overbearing and Unduly Dominant.

However – no quantified analysis/ no clear thresholds identified / Limited balancing of national policy objectives.

Response to reason no 1

Conservation Policy – Correct Interpretation

- Planning Authority relied on BHA 9 which:
 - Supports increased quality contemporary design,
 - Does not require replication of existing form.
 - Seeks positive contribution not inactivity/stagnation.
- Proposed Development:
 - Occupies a prominent junction and adopts contemporary architectural approach.
 - Modern 5 storey structure mirroring 280-288 Harold Cross Road.
 - Architecturally articulated and follows red brick form of Leinster Road.
 - Does not attempt pastiche.
 - Consistent with guidance given at pre app.
- Urban Context/Role of Site
 - Site occupies prominent location between 2 no. boroughs.
 - Marks transition between Harolds Cross and Rathmines.
 - Defined and separated as a commercial street:
 - Artery road to city centre.

- Acts as separation line between Harolds Cross and Rathmines.
 - Harolds Cross known as commercial/light industry/residential.
- Widely recognised and appropriate for increased height.
- Capable of accommodating land mark building.
- Planning Authority fails to recognise positive urban role and treats it as a uniform streetscape.
- Height Massing established context.
 - 5 story height:
 - Consistent with emerging and established development in the vicinity.
 - Efficient and sustainable land use.
 - Aligns with national compact growth – modest within Dublin urban context.
 - Refusal
 - No comparative height analysis – 5 storeys already established at 280-288 Harolds Cross Road.
 - Does not demonstrate how exceeds prevailing height.
 - Massing ratio not been exceeded.
 - Overdevelopment conclusion unsubstantiated and subjective.
- Design Quality and Articulation
 - Scheme incorporates:
 - Setbacks at upper level consistent with other schemes and provides visual brake.
 - Modulated massing.
 - Active ground floor frontage retained – public house remains in smaller unit.
 - All reduce perceived bulk/enhances streetscape and visual integration/provides architectural expression.

- Overbearing

Response to Reason no 2

- Incorrect standard of Assessment
 - Reference to overlooking of amenity space.
 - Planning Authority inaccurately states overlooking of rear garden of no. 240 Harolds Cross Road – not a garden/terrace parking area.
 - Houses at Casimir Court not reference there overlooking not considered to be an issue.
 - Materially alters the planning sensitivity of the interface.
- Nature of Relationship
 - Established urban context – absolute privacy is not realistic.
 - Relationship with no. 240 – reflects urban proximity and does not respect unusual/extreme arrangements.
 - significant loss of privacy beyond urban norm not demonstrated.
 - Overlooking/privacy null and void.
- Overstatement of overbearing/lack of evidence.
 - Supported only by sectional analysis - no reference to daylight sunlight in reasons for refusal.
 - Proposal follows urban form and benched from development at no. 280-288 Harolds Cross Road
 - Template for proposal.
 - Dose not introduce an anomalous/oppressive structure:
 - Provides for a signature building at prominent location.
 - An artery to the city with a busy transport corridor acting as a buffer to the Conservation Area.
- Mitigation

- Minor design refinements could overcome planning authorities concerns including:
 - Obscure glazing.
 - Screening elements.
 - Window repositioning.
- All considered common practice and no fundamental change required.
- Refusal is disproportionate where impacts can be readily mitigated.
- Could set back 5th Floor – reduces visual impact to Leinster Road.
 - Grosvenor Lane situated at a 90 degree angle approximately 100m from Harolds Cross Road and Leinster Road intersection.
- Leinster Road West situated 200m at a 90 degree angle from intersection with Harolds Cross Road and Leinster Road lined with trees offering screening:
 - Proposal will only impact 100m of Leinster Road having regard to its geometry.
 - Contradicts Planning Authority assertion of impact on conservation area of Leinster Road.
 - Images from google maps included to demonstrate such.
 - Impact on Z2 Zoning is de-minimis – quality of design scheme positively protects the integrity of conservation area.
- Views looking west from intersection of Leinster Road West (180m from appeal site) from google maps included:
 - Reference made to turn in the road which screens views from site.
 - No impact on Z2 conservation area from this point to Rathmines Road lower.
 - Pertinent to state Leinster Road runs for 1.1km distance.

- First 100m from appeal site looking east is potentially a consideration for review under the guise of impact to the Z2 conservation area.
- Mitigation proposed – standard solutions/easily implemented.
- Refusal is disproportionate where impacts are readily mitigated.
- Impact on Conservation Area
 - Visual Impact is limited in extent
 - Confined to 100m of total of 1.1km of Leinster Road.
 - Interrupted by non-uniform alignment.
 - Images included show long range views restricted/screened.
 - Proposal would not materially affect character/setting conservation area.
 - Perceived impact can robustly be argued to be negligible.
- Need for student accommodation
 - Delivers 40 student bed spaces.
 - Sustainable and eco friendly in accessible urban location on bus route.
 - Directly supports – national housing strategy.
 - Refusal fails to give appropriate weight to strategic need.
- Precedent and consistency
 - Well established in An Coimisiún Pleanála's decisions:
 - Increased height acceptable at well located urban sites.
 - 5 storeys established at 280-288 Harolds Cross Road.
 - Contemporary architecture is appropriate in historic context.
 - Overlooking must be assessed relative to urban norms – not idealised standards.
 - Refusal does not align with established principles.
- Conclusion
 - Refusal based on:

- Subjective argument.
- Misrepresentation of policy.
- Blatant misunderstanding of detailed submission.
- overstated impacts.

7.2. Applicant Response

The Commission received a response from applicant in relation to the observations received. The response reiterates the comments set out within the 1st party appeal which I have provided a summary of in section 7.1 of my report above. The comments relating to the Observations received are summarised as follows:

- Privacy
 - Development designed to ensure appropriate relationship with neighbouring properties.
 - Rear opes substantially separated from Casimir Court and confirmed by Planning Authority.
 - Southern elevation does not create direct opposing relationship with Casimir Court – only overlooking would be oblique which was noted by Planning Authority.
 - Wasn't included in reason for refusal.
- Use
 - Not a reason for refusal
 - Acceptable in city environment and supports compact growth.
 - Operation can be controlled by condition of permission.
- Roof Terrace
 - Modest in scale/intended for resident's use.
 - Commission can condition requirements deemed necessary.
- Daylight/Sunlight
 - Technical assessment submitted.

- Not included in reason for refusal.
- Construction, basement and operation Matters
 - Standard consideration all controlled through Planning Conditions and construction management plans, noise controls, working hours and methodology.
- Waste Storage
 - Controlled through condition .
 - Not considered unacceptable give scale of development.

7.3. Planning Authority Response

A response from the Planning Authority was received by the Commission on the 13th may 2026 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.
- A naming and numbering condition.
- A management condition.

7.4. Observations

7.4.1. Harold's Cross Village Community Council

- Reason for refusal consistent with issues raised by 3rd Party Objectors and decision is welcomed.
- Grounds of 1st party appeal does not address reasons for refusal.
- Proposal represents a 59% reduction in commercial floor space – representing a significant decrease in commercial floor space which is contrary to the Z4

zoning which seeks to meet the daily shopping need of surrounding communities.

- Student accommodation is a transitional use – inconsistent with principles of Z4 which promote development that contributes to long term integrated communities.
- Proposal therefore contravenes the Z4 Objective – reduction in commercial floorspace and introduction of transient accommodation inconsistent with Development plan objective which seeks to foster sustainable long-term and integrated communities.
- Proposed development not proximate to 3rd level college – given distances to nearest institutions site cannot be considered as '*appropriate location close to main campus*' as set out under Policy SQSN45.
- Appeal site forms terminating view of Linster Road – an area of significant architectural heritage/part of streetscape of Harolds Cross Urban Village/Area where height is 2/3 stories.
 - Proposal is overly dominant within this context.
 - Fails to conserve or enhance special architectural character.
 - Fails to preserve the streetscape of the protected structures along Leinster Road.
 - Contrary to Policies BHA2(a)(b)(d)(e)(h) and BHA9 of the city plan.
 - Would set undesirable precedent.
 - Would be injurious to visual and residential amenities of the area.
- Height/Scale/Form would have adverse effect on heritage of Leinster Road and detract from established scale and character of both Leinster Road and Harolds Cross.
- Conservation Officer at pre-app considered 4 stories to be more appropriate.
- Proposed 4th floor terrace will allow oblique views towards rear of 6-9 Casimir Court resulting in loss of privacy – conflicts with Compact Guidelines emphasis on protecting amenity.

- Unit 2.1 and 3.1 overlook area of open space serving 240 Harolds Cross Road.
- Daylight and sunlight assessment indicates reduction in daylight to no. 6-8 Casimir Court exceeding 25% and reduce sunlight to private amenity space of 232 Mountain View Avenue.
 - Proposal fails to adequately take into consideration – local character/prevaling scale/massing/urban grain and architecture/historic context/undermines the privacy and sunlight of surrounding residential units.
- Mitigation measures proposed do not adequately address issues raised.
- Proposal contravenes Compact Settlement Guidelines and represents inappropriate development.
- Development fails to respond positively to its receiving environment.
- Proposal introduces incongruous 5 storey structure – when viewed from the north and south along Harolds Cross Road will appear in stark contrast with prevailing 2/3 storey structures which define the character of the area.
 - Presents blank gables that further detract from visual amenity.
- When viewed from the east – proposal sits within the context of terraces of protected structures while from the west from Casimir it will appear visually dominant overbearing and out of scale with the established built environment.
- Proposed height and architectural expression detract from historic setting of Leinster Road – contrary to Development plan guidance.
- Concur with assessment of Planning Authority.
- Development along Harolds Cross Road is defined by a consistent historic building line – remains today to north and south of site
 - Single storey extensions were added forward of this line but maintain a set back at upper levels.
 - Development at 240 Harolds Cross Road and apartment development to the rear of 235 have remained single storey in height.
 - Proposal introduces a new visually intrusive upper floor building line that brakes from the established character of the street.

- Proposal would act as a bookend/would be visible for a distance from all directions/overburdening in terms of height/scale/massing which is contrary to Compact Guidelines.
- Proposal provides for 64sq.m of internal communal space and narrow area of ground floor outdoor space provides access for cycle and bin storage – little evidence it would useable.
- External space provided only at upper levels – development plan only considers this to be supplementary and does not count towards required communal open space.
- Stair and landing between 3rd and 4th Floor would require sufficient head height which cannot be achieved – if access is provided to roof garden as illustrated.
- Access arrangement for bike storage at lower level is inconvenient.
- Concur with comments of Traffic Planning Department Report – issues raised were not addressed within the 1st party appeal.
- Proposal fails to meet the minimum requirement of City development Plan in terms of internal community facilities, outdoor communal open space and does not address concerns of Traffic Planning Department.

7.4.2. Philip O'Reilly

- Strategic and Policy context -to general and cannot be taken without relevant and meaningful reference.
- National policy – cannot be taken to have meaning
 - Immediate environmental and residential consequences taken into account.
 - Sweeping statements cannot be considered admissible – reference to immediate context required.
 - Does not constitute any accordance with principles of proper planning and sustainable development .
 - Proposal actively promotes over development.
 - No third level institutions in Harolds cross – no context for the proposal.

- Only served by 2 no. buses – operating 20 to 30 min intervals which are already overwhelmed.
- Does not feed into the 15 minute city – takes 30 minutes to access city from here.
- Development Plan Context
 - Proposal exceeds the limits in both terms of height scale and density.
 - Proposal excessive in every way – not desirable.
 - Zoning framework precludes the development due to excessive height and resultant adverse impacts on local environment and residential amenity.
 - Design cannot be considered high quality.
 - 15 min city has no bearing and not found anywhere.
- Para 3 pg. 2
 - Proposal is overbearing and unduly dominant in close proximity to Z2 zoning.
 - Height and density – seriously adverse to residential amenity.
 - Highest building in neighbourhood is 3 stories – proposal would completely overwhelm and dominate area.
 - Planning Authority have good reason to refuse permission which is justified.
 - Argument outlined by appellant not warranted.
- Conservation Policy correct interpretation
 - Policy BHA9 supports high quality contemporary architecture
 - Proposal does not qualify as not high quality.
 - No requirement for replication but development size and type that respects the character and setting of its environment.
 - No positive contribution.
- Reference to 280-288 Harolds Cross
 - Worst development in the area – should not be replicated.

- Precedent should indicate improvement of overall development – this case should have never been permitted.
- Proposal is not architecturally articulated and will not relate to any dwellings on Leinster Road.
- Pre-planning advice does not indicate the ultimate decision of the Planning Authority – intended to be a broad informational only and has no bearing on final decision.
- Urban Context and Site Role
 - Harolds Cross road does not act as a separation distance between Rathmines and Harolds Cross – the site is wholly in Harolds Cross.
 - Site is suitable for increased height – when it complies with and respects the setting and context of surroundings. Not a carte blanche for such increased height.
 - Area does not need any landmark or gateway buildings – development that is suitably designed and to scale is required.
 - Decision of Planning Authority is correct in every way and sees that this proposal does not reflect same.
- Height/Massing and Established Context
 - Proposal is overdevelopment of a constrained site which will place excessive demand on existing amenities and infrastructure in area.
 - Not sustainable in context of area and does not comply with compact growth objectives.
 - Proposal exceeds the prevailing height – massing ratio has been blown out of the ground and development represents overdevelopment.
- Design Quality and Articulation
 - Setbacks serve to only complicate and disrupt established sky lines and are visually disruptive.
 - Nothing sympathetic about the proposal in terms of any streetscape.
 - No explanation as to what modulated massing is.

- Active street frontage already exists.
- Overbearing form reflects the architectural approach.
- Response provided to reason for refusal no.2:
 - Give rise to overlooking and diminish residential and environmental amenity.
 - Various properties within the vicinity that will be overlooked – Casimir Court.
- Overbearing Impact - lack of supporting analysis
 - Follows the form of the unacceptable development at 280-288.
 - Proposal is oppressive and anomalous structure.
 - Permission at 146-156 Harolds Cross Road was restricted to 4 storeys.
 - Development at this site requires ones that will positively contribute to the village – proposal is excessive, visually obtrusive and discoordination and will seriously take from architectural, residential and environmental character.
 - Harolds cross is the main artery into Dublin and an area where public transport is largely dysfunctional.
 - Z2 zoning on Leinster Road situated less than 10m from site – proposal will overshadow and overlook no. 97 Leinster Road.
 - Harolds Cross Road is a two lane road with no room for parking – not a sufficient buffer or divider.
 - Building would reflect traffic noise and sound further degrading residential amenity.
- Mitigation
 - Provision of listed measures constitutes an admission that there would be negative impacts on area.
 - Set back incongruous with area and not resolve visual impact.
 - Refence to Grosvenor Lane is not relevant – and reference to angles to Leinster Road is also not relevant.

- Argument put forward is not a justification for the unacceptable proposal – if you pretend and argue there is no visual incongruity.
- Proposal will be visible from a range of areas on Leinster Road – proposal is oversized, towering and ugly.
- Harolds Cross Park will also be impacted.
- Page 7 of 1st Party Appeal
 - Image sets out concerns raised.
 - Argument fails to consider west end of Leinster Road – will clearly be over dominant on Leinster Road.
 - No logical connect – Z2 zoning requires a level of protection.
 - Impact on conservation area will be catastrophic.
- Page 8 of 1st Party Appeal
 - Line of argument does not take account that the trees on Leinster Road could be removed.
 - Trees have been recently cut back .
- Page 9 of 1st Party Appeal
 - Appellant accepts proximity to Leinster Road.
 - Anyone who travels on Leinster Road will see the proposal if permitted – it represents a monolithic tower.
 - Argument put forward by the appellant represents admittance and acceptance that the proposal will have a detrimental effect on the Z2 zoning of Leinster Road and numerous Protected Structures.
 - Similar scale of development was refused at 203 Harolds Cross Road and upheld on appeal.
 - Recent precedent in area reflects decision – 178 Harolds Cross Road, 203 Harolds Cross Road and 146-156 Harolds Cross Road.
- Page 10 of 1st Party Appeal

- Standard architectural solutions are not what is required – better standard of design required which respects the surrounding context.
- Easily implemented solutions not what is required.
- Minimalist offering that might present or propose at this stage does not materially affect the proposal and the overall scheme will remain detrimental to the setting and character of the area.
- Upholding refusal is not disproportionate as no impacts have been mitigated.
- Impacts on Conservation Area
 - Impact will be catastrophic – relationship between appeal site and conservation area is not limited and would be visible for 25% of Leinster Road.
 - Will be domineering and become a central focal point.
 - No requirement for a landmark building of any type.
 - Exhibits included in appeal show absolutely nothing – views are long range.
 - No way perceived impact can be consistent as negligible.
- Need for student accommodation
 - Many people looking for long term accommodation with high quality spaces to live – inclusion of student accommodation in an established residential area diminishes the prospect.
 - Area has no association to 3rd level education facility.
 - Demolition of existing structure not environmentally friendly.
 - Bus not reliable in this area – public transport is a myth.
 - Proposal is a direct contradiction to national housing strategy – worthwhile development would be a smaller development of permanent housing.
 - Reference to reduction of pressure of conventional housing stock is incorrect.

- Proposal has no regard or respect for the area or surrounding population at large.
- Refusal was fully justified.
- Precedent and Consistency
 - No means established that increased height is acceptable.
 - 5 storeys has already been destructive in other areas of Harolds Cross.
 - Predominant height is 2/3 storey.
 - Contemporary architecture appropriate when well designed – not the case in this instance.
 - Overlooking must be adequately addressed – proposal will significantly overlook the surrounding wider area.
 - Reason for refusal most certainly aligns with established principles.
- Page 11 of 1st party appeal
 - Decision to refuse was based on objectives and requirements of the current in force City Plan and similar refusals issued at 176-178 Harolds Cross Road.
 - Reference to misinterpretation of policy and submissions is false.
- Proposal is not policy compliant, represents over development of construed site, and would give rise to unacceptable impacts on amenities.
- Request that decision be upheld.

7.4.3. Mark Kelly

- Fully support decision of Dublin City Council.
- Not accepted that the decision of the Planning Authority is subjective and qualitative.
- Assessment of Planning Authority grounded in policies and objectives of City Plan.
- Applicant places significant reliance on broad national policy to support increased density and compact growth:

- such policies do not override the requirement that a development must respond to its context.
- Appeal does not address sensitivity of the location – termination of Leinster road and Conservation Area.
 - Reliance on generalised urban density argument – not addressing site specific issues.
- Significant reliance placed on precedent established at 280-288 Harolds Cross Road however –
 - located in a different streetscape
 - does not share a relationship with Leinster Road
 - Does not share interface with low level residential area.

Therefore, comparison not adequately address specific characteristics/sensitivities of appeal site.

- Figure 6A of Daylight/Sunlight assessment submitted illustrates scale/bulk/massing of proposal and extent to which proposal would appear visually dominant.
- 1st Party Appeal state no daylight/sunlight impact – own assessment submitted confirms a reduction c.23-27%
 - Exceeds BRE guidance
 - Represents a noticeable/material impact on residential amenity.
- Appeal seeks to characterise rear of site as non sensitive environment – incorrect;
 - Directly adjoins established residential development.
 - High level of protection warranted.
- Planning Authority noted that further CGIs would be required:
 - Not submitted in appeal documents.
 - Verified photomontages (submitted with observation) provide important evidence to the true visual relationship between proposed and existing.
- Support Planning Authority Decision – Reason 1:

- Development would be unduly dominant/visually intrusive/out of character – supported by verified photomontages.
- Reason 2 – development would result in direct overlooking of amenity space and rear window opens of existing dwellings.
 - Overbearing arises for scale and proximity – seriously injurious to residential amenity.
 - Therefore Planning Authority decision is fully justified.
- Relationship to appeal site and scope of observation: property directly adjoins rear boundary of appeal site:
 - Direct impact of residential on residential including privacy/daylight/sunlight/outlook/structural security/enjoyment.
 - Supported by verified photomontages and documents.
- Photomontage viewpoints, verifications and methodology
 - Undertaken by independent and verified GENT-3D and based on application drawings submitted and verified site information –
 - Intended to provide accurate and realistic representation of development as it would be experienced from observers home.
 - Sets out location of 2 view points
 - Rear garden/ground floor living area
 - Rear bedroom (1st floor).
 - Accurately reflects immediate boundary relationship.
 - Provides reliable visual reference of increased scale and amenity impacts.
- Excessive height/scale/overbearing impact – represents an excessive and inappropriate scale in the context of immediate adjoining properties.
 - Layout and rear elevation drawing demonstrate continuous rear façade of significant increased position immediately along shared boundary:
 - No meaningful set back/transition in scale.

- Creates stark/abrupt interface between proposal and private amenity space.
- Conflict with SPPR 3 of Building Height Guidelines
 - Requires increased height responds appropriately to its immediate context.
 - Must not give rise to unacceptable impacts on adjoining residential amenity.
 - When viewed from adjoining amenity space:
 - Visually dominant/oppressive.
 - Creates a sense of enclosure.
 - Materially diminishes enjoyment of amenity space

Therefore – proposal constitutes overdevelopment and fails to respond appropriately to sensitive low rise context to rear of site.
- No 6 and 8 Casimir Court would experience same overbearing impacts arising from height/massing of proposal.
 - Further demonstrated by application documentation submitted
 - Reference made for Fig 3.1 of CGIs submitted – illustrates bulk/massing/visual dominance/out of character when viewed in context with neighbouring properties.
 - Reference made for Fig 5.12 of CGIs submitted – illustrates relationship of proposal to rear of Casimir Court – demonstrates overshadowing/out of character.
- Cover image of Planning Statement and Fig 6 of CGIs submitted illustrates substantial scale and visual prominence of proposal relative to surrounding context including no. 240 which is already larger building.
- Loss of privacy/overlooking – resulting in serious and unacceptable loss of privacy.
 - Elevated windows directly looking
 - Conflicts with compact guidelines – does not meet safeguard principles.

- Landscape screening – insufficient and seasonal.
- Appellant characterises rear of 240 as car park – incorrect 240 is a residential building and therefore proposal will impact such and proposal will impact such as recognised by Planning Authority.
- Images included demonstrate rear of 240 is an amenity space.
- Overshadowing/Loss of daylight – height and massing will lead to overshadowing and loss of daylight which is confirmed by assessment submitted by applicant.
 - Reductions indicate that it exceeds threshold of BRE Site Layout Planning – occupants likely to therefore notice loss and adverse impacts.
 - Assessment seeks to characterise these impacts as acceptable when considered across wider area – assessment must focus on effect of individual properties most affected.
 - Therefore overbearing impact on Casimir Court.
- Noise and operation disturbance – proposal will generate increased noise and disturbance.
 - 74sq.m terrace at 4th floor – give rise to overlooking and noise generation.
 - Roof terrace noise will travel more readily.
 - No evidence of how this area will be maintained.
 - Contrary to development plan seeking to protect established residential conditions.
- Residential Interface and Separation Distance – fails to provide adequate separation distance.
 - Substantially increase and immediate boundary treatment creates inappropriate interface.
 - Exacerbated overlooking/overshadowing/dominance/sence of enclosure.
 - Contrary to Compact Guidelines.
- Construction Traffic/Haul Route/Residential Disturbance

- Construction Development Waste Management Plan identifies single inbound and outbound route via Harolds Cross
 - Casimir Ave/Court not identified however plan does not explicitly prohibit construction traffic from here.
 - Lack of clarity gives rise to concern.
 - Plan identifies significant traffic construction – level of activity not acceptable.
- Excavation of Basement works and boundary wall – engineering report does not provide for site specific assessment of excavation impacts:
 - Commercial basement position directly adjacent to garden wall:
 - Already exhibits structural damage.
 - Possible destabilisation of boundary wall.
 - Bamboo Planting within appeal site on common boundary – extensive root system removal could impact boundary wall.
 - No survey of shared boundary wall submitted – no details of removal/containment/management gives rise to concern.
 - Planning Authority identifies the need for basement impact assessment and construction methodology.
 - None submitted with appeal.
 - Given proximity to property concern ongoing.
 - Photos of damaged wall submitted.
- Commercial Bin Storage Area – adjacent to residential amenity space.
 - Adjacent to residential amenity space.
 - Concern over noise, odour and vermin.
 - No buffer provided.
- Response to Planning Statement
 - No consideration of direct and immediate impact to adjoining residential properties.

- Assessment framed on impact to Harolds Cross Road.
- Architectural and Cultural Heritage Considerations
 - Advice from Conservation Officer at Pre-app was ignored.
 - Proposed conflicts with Appendix 3 of City Development Plan – requires restraint in height and massing in sensitive areas.
 - Appeal recognises visual prominence and suggest set back at upper floors- excessive scale retained.
- Conflicts with Dublin City Development Plan:
 - Contrary to policy and objectives that seek to:
 - Protect residential amenities.
 - Avoid overbearance/impact on visual amenity.
 - Provide appropriate scale/separation distance.
 - Respect sensitive residential conservation context.

7.4.4. Susan O'Brien

- Considered overdevelopment of a restricted site.
- Developer has downplayed use of Mountain View Avenue:
 - Lane not capable of accommodating increased volume of cyclists/e-scooters/delivery trucks.
 - Imposes danger on pedestrians and residents.
- Concern for pedestrians on Harolds Cross Road
 - Increased movement of large trucks
 - Lack of turning points on Mountain View Avenue – vehicles will need to reverse onto Harolds Cross Road.
- Report of the Transportation Section of the Planning Authority highlighted these concerns.
 - Response from applicant that there will be monitoring is not good enough.
- Difficult access for Dublin Fire Brigade.

7.4.5. Michael & Louise Mansfield

- Development is fundamentally inappropriate for this constrained highly sensitive site.
- Applicants attempt to minimise site sensitivity which is clearly detailed in policy.
- Height/Scale/Massing
 - Applicant has not provided any technical evidence that the Planning Authority are incorrect in their assessment.
 - Applicant relies on subjective assertion and selective comparisons to unrelated developments.
 - Planning Authorities assessment is robust/policy based/supported by detailed analysis.
- Overlooking and Overbearing
 - Ref to 240 Harolds Cross Road: Applicant incorrectly claims that the area is not a garden but a tarmac car-park – Planning Authority explicitly identifies it as private amenity space and applicants drawings show this area functioning as such.
- Failure to responds to local character and infill development policy:
 - Applicant does not address Chapter 15.5.2 of the city plan in any meaningful way.
- Over-concentration of Student Accommodation
 - Concern raised by Planning Authority not addressed.
- Inadequate access and servicing – Mountain View Ave.
 - Transportation planning raised serious concerns.
 - Narrow constrained laneway is unsuitable for construction traffic/refuse collection/deliveries/emergency access.
 - Appeal does not resolve these concerns.
- Loss of a Long established community facility

- Planning Authority recognises importance of community facilities within Z4 zoned area.
- Applicant has not demonstrated that the loss of this facility is justified or mitigated.
- Procedural concerns
 - Site notice – not erected adjacent to the main entrance and not readily visible to the public.
 - Raises a concern about public participation and transparency.
- Refusal issued is thorough/evidence based/consistent with Development Plan and supported by professional assessments.
- Request that refusal is upheld as the development would:
 - Seriously injure residential and visual amenity.
 - Harm the setting of a conservation area.
 - Represent overdevelopment of a constrained site.
 - Create unacceptable overlooking and overbearing impacts.
 - Fail to respect local character.
 - Undermine sustainable neighbourhood principles.
 - Provide inadequate access and servicing.
 - Results in the loss of a valued community facility.

7.5. Further Responses

A response from Philip O'Reilly was received in relation to the observation received from Mark Kelly. The response is supportive of the comments made by Mr. Kelly and welcomes the inclusion of the photomontages which it is stated provides for a good interpretation of the impact the proposal will have on neighbouring properties. In addition, the response reiterates the comments made in the original submission received from Mr. O'Reilly which I have summarised above under section 7.4.

8.0 Assessment

8.1. Introduction

8.1.1. Having examined the application details and all other documentation on file, including appeal and observation submissions, the reports of the local authority, having inspected the site, and having regard to the relevant local policies and guidance, I consider that the substantive issues in this appeal are as follows:

- Principle of Development.
- Reason for Refusal 1 - Height, Density and Design.
- Reason for Refusal 2 - Impact on Amenity
- Daylight Sunlight.
- Overconcentration of Student/transient Accommodation.
- Other Matters.

8.2. Principle of Development

Zoning

8.2.1. The appeal site is zoned Z4 - Key Urban Villages and Urban Villages which seeks 'To provide for and improve mixed-services facilities'. Student accommodation use is listed as being open for consideration under the Z4 zoning matrix, while commercial shop (local), shop (neighbourhood), are permissible uses within the Z4 zoning.

8.2.2. Having regard to the nature of the development proposed and the current statutory plan for this area, the student accommodation and associated uses proposed on this site are acceptable, I am satisfied that the proposed development would be in accordance with the Development Plan land-use zoning objectives for the site.

Core Strategy

8.2.3. The appeal site is situated within the Harold Cross which is identified as being a Urban Village within the Core Strategy of Dublin City Development Plan 2022-2028. The Core Strategy of Dublin City Development Plan 2022-2028 states that based on the population targets and calculated housing need set out within national and regional

planning policy, guidelines and prescribed methodology, the development plan must accommodate an overall population target of between 625,750 and 640,000 by 2028.

- 8.2.4. It is further stated that the settlement hierarchy prioritises development in the Inner-City Area and the Key Urban Villages. The appeal site is not situated within a Key Urban Village, however, Section 2.7.2 of the City Plan states that national and regional policy places an emphasis on compact growth and supports the sustainable development of brownfield and infill lands, through consolidation to support the optimal use of the finite resource of land.
- 8.2.5. Furthermore, I would note that the support for Student Accommodation is also provided for at both national and regional level through section 6.6 of the National Planning Framework – First Revision, Section 7.7 of the Delivering Homes, Building Communities 2025-2030: An Action Plan on Housing Supply and Targeting Homelessness, and Section 9.3 of the Regional Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES).
- 8.2.6. Having regard to the location of the subject site and proximity to a range of sustainable modes of public transport, the nature and scale of development, zoning objectives for the site and the pattern of development in the area I am satisfied that the development is consistent with and will contribute to the core strategy of the CDP.

Density

- 8.2.7. The proposed development is seeking permission for 40 no. student bed spaces. The Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities provide guidance on calculating net densities for student accommodation and states that 1 dwelling equates to 4 bed spaces. As such the Proposal would equate to 10 no. dwelling units and therefore generate a density of 136 units per hectare.
- 8.2.8. Table 1 of Appendix 3 of the City Plan sets out density ranges for Dublin city and suburbs. Harold's Cross would be considered an urban neighbourhood where the guidelines consider densities in the range of 50dph to 250dph to be appropriate. The density range of 136 units per hectare is considered acceptable in this instance

8.3. Reason for Refusal 1 - Height, Density and Design

- 8.3.1. The 1st reason for refusal set out by the Planning Authority relates to scale, massing and design of the proposed development which the Planning Authority considered would seriously injure the sensitive context of the area and fails to respond positively to its receiving environment and would be unduly overbearing in the street context.
- 8.3.2. The reason for refusal states that the proposed development would be contrary to the Sustainable Residential and Compact Settlement Guidelines (2024) and conflict with Policy BHA9 and Appendix 3 of the Dublin City Development Plan 2022 2028.
- 8.3.3. The 1st Party appellant has offered a response to each of the concerns raised by the planning authority within their appeal document. They set out how the proposed development would overcome all of the concerns raised.
- 8.3.4. The appellant has contended that the Planning Authority have incorrectly interpreted policy BHA9 of the City Plan which they consider supports high quality contemporary architecture; does not require replication of existing historic form; and seeks a positive contribution and not a stagnation of the streetscape. All of which the applicant states the proposed development achieves.
- 8.3.5. Policy BHA9 of the City Plan seeks to protect special interest and character of all Dublin's Conservation Areas identified under Z8 and Z2 zoning objectives by ensuring that all development within or affecting such areas contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.
- 8.3.6. The appeal site is a prominent location at the junction of Harolds Cross Road and Leinster Road. While the appeal site is located outside of a designated conservation area, given its proximity to Leinster Road, which is zoned under Z2 – Residential Neighbourhoods (Conservation Areas) and where there are a number of Protected Structures immediately proximate to this junction.
- 8.3.7. From undertaking a site visit, I note that the prevailing established building height of the surrounding area is two storey commercial buildings with some insertion of 3 storey increasing to 4/5storey redevelopments located in the wider area.
- 8.3.8. SPPR 3 of the Building Height Guidelines for Planning Authorities requires that applicant for planning permission sets out how a development proposal complies with

the development management criteria (section 3.2). I therefore consider that the proposal subject to this appeal must demonstrate compliance with Section 3.2 of Building Height Guidelines, 2018 which sets out development management criteria for applications for permission seeking a deviation in height from the established pattern of development within the area.

- 8.3.9. Firstly, the proposal must be well served by public transport. I accept that having regard to the location of the subject site in Harolds Cross, which is served by the F-Spine of Bus connects that the proposal would satisfy this criteria.
- 8.3.10. The second criteria relates to proposals within architecturally sensitive areas, which should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. In this instance I note that the appellant has stated that the proposal integrates into the character and public realm of the area which they considered that been justified by the application documentation submitted and the precedent established at 280-288 Harolds Cross Road which comprises of a 5 storey building.
- 8.3.11. A heavy emphasis has been placed by the appellant on the development which has been constructed at 280-288 Harolds Cross Road as a justification for the significant height deviation. While I note that planning precedent does hold some form of justification, each development needs to be considered on its own merits and site considerations. I consider that the development permitted at 280-288 Harolds Cross Road is at complete variance to what is being proposed under this application given the proximity of the appeal site to the Z2 Zoned area which comprises a number of protected structures. The building at 280-288 was permitted under PA Ref 3692/16 which was assessed under a different Development Plan Period and addresses a more commercial area of Harolds Cross Road where a petrol station is located. The juxtaposition to the Z2 Zoning of the development permitted at 280-288 Harolds Cross Road is not comparable to the appeal site positioning.
- 8.3.12. On review of the design/access/planning statement submitted, I fail to see how the application has demonstrated that the proposal successfully integrates given the limited interrogation provided and lack of Visual Impact Assessment included. I consider that the prominent location of the subject site and its juxtaposition to Leinster Road and protected structures located on such, together with the existing residential

units located to the south and west was not considered thoroughly in the design process. The insertion of a 5 storey building which has little architectural expression and which is visually jarring with the established streetscape and prevailing height along Harolds Cross Road would give rise to a significant negative impact upon the Z2 Zoned area of Leinster Road. Therefore, the proposal would fail to comply with SPPR 3 of the Building Height Guidelines for Plannign Authorities.

8.3.13. In addition, I would not to the Commission at this point that the assessments submitted by the application has not provided for an assessment of the proposed scheme against Section 3.2 of the Building Heights guidelines to justify the deviation from the established height of the surrounding area being proposed and fails to acknowledge Appendix 3 – Achieving Sustainable Compact Growth of the Dublin City Development Plan 2022-2028 .

8.3.14. While I note that the Planning Authority have made reference to the Compact Settlement Guidelines, which were published following adoption of the CDP, within both their assessment and 1st reason for refusal with a specific emphasis being places upon Section 3.4 Refining Density and section 3.4.2 Step 2: Considerations of Character, Amenity and the Natural Environment to justify the height proposed being inappropriate, I note that this section of the Compact Guidelines is a tool to test that where density is proposed exceeds that recommended in section 3.3 of the guidelines. I note that the density proposed in this instance of 136 units per hectare is acceptable in terms of Table 1 of Appendix 3 of the City Plan and therefore I do not consider the Compact Guidelines to be relevant in this instance.

8.3.15. Table 3 of Appendix 3 of the Dublin City Development Plan 2022-2028 sets out key criteria to justify development which exceed the prevailing height of the area where it is proposed. It includes factors such as adequate infrastructural capacity, appropriate design response, appropriate housing mix and proximity to high quality public transport, employment and community services. Please see an assessment set out below of the proposed development against the 10 no. objectives of Table 3:

Criteria 1 – To Promote Development with a Sense of Place and Character	The proposed development would not integrate well with the streetscape as it would exceed the prevailing building height in the immediate area. The design is distinctive but is monolithic
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	and fails to respect the existing character of the area. The proposal would also give rise to a detrimental effect on Leinster Road which is a conservation area and comprises a number of protected structures which it directly imposes in terms of overbearance.
Criteria 2 – To Provide Appropriate Legibility	In my opinion, similar to my assessment above, the proposal, due to the increased height and lack of architectural expression would fail to positively contribute to the streetscape or respond adequately to the established context of the surrounding area due to the inappropriate juxtaposition between the proposed and established building heights. The differentiation between the proposed 5 storeys versus the established two storey buildings along Harolds Cross Road and the historic context of Leinster Road would only exacerbate the perception of overbearance that the proposal would give rise to.
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 it is intended to retain some commercial operations at ground floor, the area would be significantly reduced. 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.	. Given the size of the development site and the nature of the proposed use, there is limited ability to provide any public open space. There are a number of public open spaces within the

	vicinity of the appeal site such as Harolds Cross Park . The introduction of communal open spaces at the upper level of the development will give rise to issues of overlooking of private amenity space serving adjoining properties. Furthermore, having regard to the orientation of these communal area and the lack of passive surveillance from the proposed apartment units, I am of the opinion that they may not offer any level of amenity. I will discuss this further in section 8.4 of my report below.
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. This concern is addressed further within section 8.4 of my report below.
Criteria 6 - To Promote Mix of Use and Diversity of Activities	The proposed development does provide for a mix of activities. Permission is being sought student accommodation with a commercial offering at ground floor level.
Criteria 7 - To ensure high quality and environmentally sustainable buildings.	The application was accompanied by a Construction Management Plan and sets out typical arrangements and measures which may be undertaken during the demolition and construction stages of the project in order to mitigate and minimise disruption and disturbance to the area around the site. It provides an outline proposal of how construction will be managed to comply with Local Authority and statutory requirements and will be updated post award of planning to reflect

	specific planning conditions which may be applied to the development. 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 Leinster Road and the protected structures. 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 as an Architectural Conservation Area.
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.

- 8.3.16. Having regard to the above, I am of the opinion that the proposed development does not comply with the performance criteria listed above from Table 3 of Appendix 3 of the CDP and therefore the deviation in the prevailing height as proposed is not justified or considered appropriate in my opinion for the site.
- 8.3.17. Overall, I fail to see how a development with a height that significantly exceeds the prevailing height could be considered as plan led or acceptable on this prominent site at the junction of Harolds Cross Road and Leinster Road. I therefore agree with the 1st reason for refusal and consider to grant permission for the proposed development would be contrary to SPPR 3 of the Building Height Guidelines, would be contrary to Objective BHA9 of the City Plan and contravene Appendix 3 of the Dublin City Development Plan 2022-2023. It is therefore concluded that the proposed development in its current form would represent overdevelopment of the subject site and I recommend that the decision of the planning authority be upheld and permission be refused.

8.4. Reason for Refusal 2 - Impact on Amenity

- 8.4.1. The Planning Authority considered that the proposed development would seriously injure the visual and residential amenities of property in the vicinity via issues of overlooking and overbearing with a specific reference being made to 240 Harold Cross Road.
- 8.4.2. The appellant in their appeal states that the Planning Authority mistook an area of parking situated to the rear of No, 240 Harold Cross Road as an area of amenity space and that no concern was raised over Casimir Court. It is contended that given the existing urban context of the appeal site absolute privacy is not required or realistic and that the relationship with the neighbouring property (240) reflects a normal urban proximity and does not represent an unusual/extreme arrangement. The appellant further contends that issues of overlooking and loss of privacy is null and void.
- 8.4.3. In the first instance, I note from undertaking a site visit the area referenced by the Planning Authority situated to the rear of no. 240 Harolds Cross Road is in fact an area of communal open space and also private amenity space serving the residents. There is also an area for parking which is situated further west. From assessment of the Plans submitted I note that windows situated on the rear return of the proposed building

which serve bedrooms at 2nd and 3rd floor plan are set c.9.4m from the common boundary that is shared with this area of amenity space. In addition, it is proposed to provide an area of communal open space at 4th floor level on this return that is also set c.9.4m from the common boundary.

- 8.4.4. Furthermore, the roof terrace is also set c.7.5m from the western boundary of the site which is shared with the private amenity space serving dwellings situated within Casimir Court.
- 8.4.5. SPPR 1 of the Sustainable Compact Guidelines for Planning Authorities states that a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. It further states distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.
- 8.4.6. In this instance I note that there are no opposing opes affected at no. 240 Harolds Cross Road but there are no privacy measures proposed to protect that property from issues of direct overlooking from the bedroom opes situated at 2nd and 3rd floor to the private amenity space severing No. Harolds Cross. I accept that some level of mitigating is proposed in terms of a privacy screen at the 4th floor terrace area however I do not consider that this would overcome issues of perceived overlooking to dwellings at Casimir Court and would therefore not protect the current level of amenities enjoyed. Therefore, the proposal would be contrary to SPPR 1 of the Sustainable Residential and Compact Settlement Guidelines for Planning Authorities.
- 8.4.7. Having regard to the limited separation distances being provided and lack of privacy measures being provided, I consider that the proposed development would give rise to significant undue levels of overlooking that would reduce the current level of amenity enjoyed at no.240 Harolds Cross Road and dwellings situated within Casimir Court.
- 8.4.8. I note that the appellant has included a number of mitigation measures which could be implemented to overcome the concerns raised by the Planning Authority with regard to overlooking, however no plans were submitted to indicate how these measures would mitigate against issues of overlooking or how the proposal would be required to

be amended to facilitate such. Therefor I do not consider it appropriate to consider such with out any plan based evidence.

- 8.4.9. With regard to overbearance, as set out within section 8.3 above, the prevailing height within the immediate vicinity of the appeal site range in height from 2 to 3 storeys in height and as such the provision of a 5 story building would be out of character. The appellant continually has stated within their 1st party appeal and response to observer that the proposed building is contemporary in form and of high architectural quality and that Harolds Cross Road which is a busy artery to the City Centre acts as a buffer between the appeal site and Leinster Road.
- 8.4.10. In the first instance I note that Harolds Cross Road is a two way single lane road with cycle track provision in each direction that has a width of c.9m. While it may be a busy road which experiences high quantum's of traffic, I do not consider that it would act as a sufficient buffer to reduce the impact of the insertion of the proposed building on Leinster Road. This is evident and supported by the CGI image (Image 14) which is included within the Planning Statement submitted to the Planning Authority. The excessive height, which is exacerbated by the use of a lighter brick at ground floor level and the introduction of metal cladding to circular dormer features at 5th floor together with the expansive massing across the width of the appeal site, renders the building over dominant and a visual disturbance when viewed from Leinster road.
- 8.4.11. Furthermore, when viewed from the south, traveling along Harolds Cross Road, the building presents a blank elevation which is set c.5m forward of the neighbouring Building no. 240 Harolds Cross road. This blank elevation together with the siting of the building would be detrimental to the established streetscape of Harolds Cross Road giving rise to overdominance and be visually obtrusive.
- 8.4.12. The rear elevation of the return of the proposed building which measures at c.12.226m and set c. 5.5m from the common boundary formed with dwellings situated within Casimir Court is also provided as a blank elevation. While I understand the intention of this is to overcome issues of overlooking, this elevation, which is indicated on plan ad being finished with brick, would also be visually overbearing on the private amenity space serving Casmir Court residents given the limited separation distance and height proposed. I note that this has been demonstrated in photomontages which were prepared by a suitably qualified persons and submitted by an observer to this appeal.

- 8.4.13. The application submitted was accompanied by limited photomontages/CGI's of the proposal. The planning statement submitted included for 2 no. CGI's of the proposal – one from the south (Harolds Cross Road) and one from Leinster Road. The Planning Authority considered that the applicant should have submitted a Visual Impact Assessment (VIA) of the proposal and given the proximity to Z2 zoned area of Leinster Road I would concur with the Planning Authority and while I note a VIA is not a statutory requirement, it would provide for a useful tool to justify the development as proposed.
- 8.4.14. Overall and in conclusion, I consider that having regard to the overall design of the proposal which is significantly lacking in architectural expression and the proximity of the proposed development to the neighbouring properties and lack of robust mitigation being proposed that to permit the proposed development would give rise to issues of overbearance and overlooking, would be contrary to SPPR1 of the Compact Guidelines and would give rise to a significant negative impact upon the current level of both visual and residential amenity enjoyed within the location. I therefore recommend that permission be refused.

8.5. Daylight Sunlight

- 8.5.1. Observers to this appeal contend that the daylight/sunlight assessment submitted to by the applicant indicates that the impact expressed within the assessment demonstrates that the proposal would exceeds threshold as set out within the BRE Guidelines for Site Layout Planning. The applicant in response states that this concern was not raised by the Planning Authority within their reason for refusal.
- 8.5.2. The assessment which was submitted by the Applicant states that the proposal will have a minor impact on the adjacent assessed windows and that only 8 of the total 440 windows assessed will fall below the BRE guidance for VSC levels. The 2 affected windows at 232 Harold's Cross Road are located in rooms with unaffected skylight, and the remaining 6 affected windows at 6-8 Casimir Court experience reductions of 23% to 27%.
- 8.5.3. The assessment further states that 99% of the assessed windows at the adjacent properties meet the BRE recommended guidelines for annual probable sunlight hours, with the exception of 3 out of the 230 windows assessed, which are predicted to

experience a reduction in sunlight levels during the winter months that exceeds the BRE recommendation. All findings have been clearly presented within Table 5.1 of the document submitted.

- 8.5.4. Overall, considering the findings of the daylight/sunlight assessment submitted I accept that the proposal would accord with the guidance set out within the BRE document and that the scheme proposed will not impact negatively in terms of the current level of sunlight/daylight received by properties in the vicinity.

8.6. Student/transient Accommodation

- 8.6.1. It is contended by observers to this appeal that student accommodation is transient in nature and is inconsistent with the Z4 Development plan objective which seeks to foster sustainable long-term and integrated community. It is further argued that there is no need for such type of accommodation given that there is no third level institutions within the vicinity and that the appeal site is not well connected in terms of public transport.
- 8.6.2. In the first instance I note that the appeal site is situated on Harolds Cross Road which is one of the main arteries into Dublin City Centre and is served by F1 Bus connects route which operates every 15 minutes, in addition to the number 83, number 83 and number 83A routes all of which operate on a 20 minute basis. In addition, the appeal site is situated 2km to the west of the Ranelagh Luas Stop. Therefore, I do consider that the appeal site is well connected in terms of public transport.
- 8.6.3. Objective QHSN44 of the city plan seeks to avoid proliferation and concentration of student accommodation developments while Objective QHSN45 requires the Planning Authority when considering applications for student accommodation developments to consider the nature of the locality in terms of mix of land use and housing types, and the existing and proposed number of students in the locality. This objective also requires applicants for this type of development to submit a concentration assessment to assist the Planning Authority in their assessment.
- 8.6.4. I note that the Planning Authority did not raise a concern over proliferation of student accommodation and made no reference to any concentration assessment as it appear that the application was not accompanied by one. While I accept the concerns of the observers that the use may be transient in nature, given that the use is open for

consideration and that the appeal site is located in an area which is well served by public transport I do not consider that the proximity of third level institutions to be an issue.

8.7. Other Matters

8.7.1. Construction Impacts

Observers to this appeal have raised concern about the lack of clarity and details pertaining to the construction phase of the proposed development. It is contended that the lack of details with regard to the excavation works gives rise to concern over the impact it may have upon the stability of the boundary wall and foundations of adjoining properties.

The Planning Authority in their assessment noted a similar concern and referenced the lack of Basement Impact Report which would be required in accordance with Policy SI23 of the City Plan.

From a review of the construction management plan submitted I do consider that it is generic in nature and no actual specifics of how it is proposed to mitigate against impacts on the surrounding properties. I therefore accept the concerns of the observers however given the substantial nature of the reasons for refusal set out above I do not consider that this issue should be included. The Appellant, however, should be made aware of this concern which should be addressed in any future application pertaining to the appeal site.

8.7.2. Internal Consultee Reports

I note that the report received from the Transportation Planning Section of the Local Authority and the Drainage Section both raised concern over a number of issues with the proposed development and recommended that further information be requested. An observer to this appeal made reference to this and further stated that the appellant made no effort to address these issues in their 1st party appeal.

The concerns of the internal consultees raise concern over the lack of Basement Impact Assessment submitted, lack of green/blue roof, how the servicing requirements of the proposed development can be adequately met, refuse collection, proposed bicycle parking arrangements, and to investigate the potential to upgrade the

environment of the streets on Mountainview, as a second pedestrian access was proposed.

I accept the concern of the observer in this instance and give the information available to the 1st party appellant a response should have been provided as part of their appeal documents however I note that there is no statutory requirement for the appellant to do so. In the event that the Commission uphold my recommendation and that the appellant decides to move forward with a new application – consideration should be given to the internal consultee reports on file.

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 4.9km 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 the demolition of the existing buildings on site and the construction of a 5-storey building comprising 40-bed student accommodation with ground floor commercial space and all associated site works at 236 - 238 Harold's Cross Road, Dublin D6WRF44.
- 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.270m 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.908.63m 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 a 5-storey building comprising 40-bed student accommodation with ground floor commercial space and all associated site works at 236 - 238 Harold's Cross Road, Dublin D6WRF44. 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 to the east of the Poddle River and the lack of a hydrological connection.
- 10.5. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or

permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

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

12.0 Reasons and Considerations

1. Having regard to the scale, massing and design of the proposed development, the proximity of the proposed building to private amenity space serving the immediate adjoining properties, its location on this prominent site opposite Harold's Cross Park and in close proximity to historic buildings and Protected Structures, it is considered that the proposed development would seriously injure the residential and visual amenities of the streetscape by reason of overbearing, overdevelopment and overlooking. The proposed development would be contrary to SPPR 3 of the Urban Development and Building Height Guidelines, 2018, would be contrary to Objective BHA9 of the City Plan, and contravene Appendix 3 of the Dublin City Development Plan 2022-2023. As such, the proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the overall design of the proposal which is significantly lacking in architectural expression and the proximity of the proposed development to the neighbouring properties and lack of robust mitigation being proposed that to permit the proposed development would give rise to issues of overbearance and overlooking, would be contrary to SPPR1 of the Compact Guidelines and would give rise to a significant negative impact upon the current level of both visual and residential amenity enjoyed within the location. I therefore recommend that permission be refused. the proposed development would therefore 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.

Kathy Tuck
Planning Inspector

22nd July 2026

Appendix 1

EIA Pre-Screening

Case Reference	PL-501171-DS-26
Proposed Development Summary	Demolition of Lyster's Bar and construction of a 5-storey building comprising 40-bed student accommodation with ground floor commercial space and all associated site works.
Development Address	236 - 238 Harold's Cross Road, Dublin D6WRF44
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	☒ Yes, it is a 'Project'. Proceed to Q.2.
	☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	

☐ 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. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☒ 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
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	Screening Determination required (Complete Form 3)
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Appendix 2

EIA Preliminary Examination

Case Reference	PL-501171-DS-26
Proposed Development Summary	Demolition of Lyster's Bar and construction of a 5-storey building comprising 40-bed student accommodation with ground floor commercial space and all associated site works.
Development Address	236 - 238 Harold's Cross Road, Dublin D6WRF44
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The urban site is serviced and its size is not exceptional in the context of the prevailing plot size in the area. 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. 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.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and	The development is situated in an urban area on a site facing the street and situated adjacent to existing residential properties and commercial premises which is not exceptional in the context of surrounding development.

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).	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. The development is not likely to have any cumulative impacts or significant cumulative impacts with other existing or permitted projects. The development is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the nature of the proposed development and works constituting demolition of existing buildings and construction of student accommodation 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.
Conclusion	
There is no real likelihood of significant effects on the environment.	EIA is not required. Include the following paragraph under EIA Screening (a separate heading) in the Inspectors report.

Inspector: _____ **Date:** _____

Appendix 3

AA Screening Determination

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 structures and construction of a 5 storey building comprising 40-bed student accommodation with ground floor commercial space and all associated site works on a site situated at 236 - 238 Harold's Cross Road, Dublin D6WRF44.

The Planning Authority, within their assessment, stated that having regard to the nature and scale of the proposed development, and the distance to the nearest European site, it is considered that significant effects are not likely to arise, either alone or in combination with other plans and projects that will result in significant effects to any Natura 2000 area. A full Appropriate Assessment of this project is therefore not required.

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 SAC (site code 000210).

- South Dublin Bay, the River Tolka Estuary SPA (site code 004024).
- South Dublin Bay pNHA (site code 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.

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.