

Planning and Development Acts 2000 to 2020

Planning Authority: Dublin City Council

Amendments to the North Lotts and Grand Canal Dock SDZ Planning Scheme

**WHEREAS** on the 16<sup>th</sup> day of May 2014, An Bord Pleanála decided, under section 169(7) of the Planning and Development Act, 2000, to approve, with modifications, the making of the North Lotts and Grand Canal Dock Strategic Development Zone Planning Scheme, and this scheme was subsequently published by Dublin City Council:

**AND WHEREAS** on the 31<sup>st</sup> day of May 2019, Dublin City Council applied to An Bord Pleanála to make amendments, as set out in the document entitled "Review of Building Height & Proposed Amendments to the North Lotts and Grand Canal Dock Planning Scheme 2014", submitted with the application:

**AND WHEREAS**, in arriving at its decision, the Board had regard to:

- the planning history of the Strategic Development Zone scheme approved by An Bord Pleanála in May 2014, and to the overall scope and objectives of the approved planning scheme,
- the nature of the proposed amendments, as set out in the Planning Report accompanying the application,

- the responses to public consultation, and the report of the consultation phase prepared by Dublin City Council,
- the Inspector's report dated September 2017, and the Inspector's report dated March 2020, assessing the consultation response and advising on whether or not to make the amendments, and
- the provisions of section 170A of the Planning and Development Act, 2000, as amended:

**NOW THEREFORE** An Bord Pleanála decided, under the provisions of section 170(A) of the Planning and Development Act, 2000, as amended, **NOT TO APPROVE** the making of the proposed amendments, based on the Reasons and Considerations set out below.

### Reasons and Considerations

The Board noted that no Appropriate Assessment appeared to have been carried out by the Board's Inspectors, but that the conclusions of the planning authority stated that 'assuming the successful implementation of the mitigatory objectives contained with the planning Scheme (of 2014), there will be no adverse effects on the integrity of the Natura 2000 sites arising from the scheme in isolation or in combination with other plans and projects.' The Board noted that no further surveys or analysis were carried out and that there was limited additional information in respect of additional plans or projects which may have an influence on 'in combination effects'. Were the Board to have considered approval of the amendments proposed, it is considered that a comprehensive Screening for Appropriate Assessment (Stage 1) would be required, and that if mitigation is required that a Natura Impact Statement should be submitted.

The Board also noted that notwithstanding its title the document 'Strategic Environmental Assessment of the Proposed Amendments to the North Lotts and Grand Canal Dock Planning Scheme 2014' does not constitute a comprehensive and complete Strategic Environmental Assessment under the meaning of the Planning and Development Act, 2000, as amended, and in accordance with SI Number 435/2004 in this regard. Specifically, the Board notes that the Strategic Environmental Assessment submitted is deficient in respect of how it addresses:

- the plan's relationship with other relevant plans,
- the current state of the environment and likely evolution thereof without implementation of the plan or modifications of the plan,
- the likely significant effects on the environment with particular regard to population, climate and material assets, and
- an outline of the reasons for selecting the alternatives dealt with.

The Board, in considering the proposed amendments to the Strategic Development Zone scheme, further noted the relatively minimal changes proposed, notwithstanding the material and significant changes in the wider environment and policy context since the adoption of the Strategic Development Zone scheme in the first instance (in 2014).

The Board noted the rationale and requirement for the amendments to the Strategic Development Zone scheme, that is, to have regard to the Urban Development and Building Height Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in 2018 (SPPR 3 (B)), which builds on National Planning Framework objectives and National Strategic Objective to deliver compact growth (reference paragraph 3.1 of the Ministerial Guidelines). Within the National Planning Framework and national policy documents such as the Housing and Homelessness Action Plan 2016, objectives to address the ongoing housing



crisis and need to provide housing close to services and employment are also relevant.

The proposed amendments provide for minimal increases in height throughout the scheme and in one location a reduction in height is proposed. Furthermore, it is noted that an increase of only 225 residential units is proposed. Proposed increases in commercial floor area are also considered in submissions received to be equally restricted. The proposed increases in residential and commercial floor area were not considered to be material or significant (as outlined in the Inspector's Report dated September 2019). Therefore, and having regard to a number of the submissions received, the Board is of the opinion that options to consider greater housing provision within this strategic location have not been fully assessed and have not been realized. The Board considers that the fundamental intention of the Urban Development and Building Heights Guidelines was not to introduce height for the sake of height, but to introduce and consider increased heights and densities as a means of accommodating greater residential populations within our serviced and zoned land banks in particular where public transport, employment and other services were proximate to this development (compact growth).

In addition, the Board was concerned that the implications and potential impact of not facilitating meaningful population increase within this strategic location could place greater demands to provide housing in locations further away from services and the City Centre, and that these potential impacts would not appear to have been considered or documented in the planning reports (including the document titled 'Strategic Environmental Assessment of the Proposed Amendments to the North Lotts and Grand Canal Dock Planning Scheme 2014') submitted and accompanying the proposed Strategic Development Zone scheme amendment. A similar situation arises in respect of the minimal increase in office space provided for within the proposed amendments. The Board is not satisfied that the proposed amendments reflect the objectives of the National Planning Framework, the Urban Development and Building Heights Guidelines, or national strategic objectives, and are further not satisfied that all reasonable alternatives have been considered and/or the

environmental impact of the proposed amendments when considered against related plans or programmes.

The Board noted the 29 submissions received, 21 of which sought greater height, density or commercial opportunity. The Board in their consideration of the amendments to the Strategic Development Zone scheme noted the submissions received and their consideration by the planning authority, and in the Board's Inspectors report and are not satisfied that meaningful engagement with these submissions has occurred. Having regard to the parameters to which the Board is bound in respect of their consideration of proposed amendments to a Strategic Development Zone scheme as outlined in section 170(A) of the Planning and Development Act 2000, as amended, it is not open to the Board to meaningfully engage with these submissions as they cannot make material changes to the proposed amendments. The Board notes that, once adopted, alternative proposals or interpretation of the Strategic Development Zone scheme objectives cannot be considered through planning applications and that there is minimal or no opportunity for appeals of Strategic Development Zone planning application decisions.

Therefore, there is a greater onus on the planning authority to ensure that this is provided for and documented and reflected in the proposed Strategic Development Zone scheme amendments, and in the alternatives considered under Strategic Environmental Assessment provisions.

While the Board in its Direction (dated 26<sup>th</sup> day of September, 2019) accepted that the proposed amendments in their own right did not constitute a change in the objectives of this scheme, significantly increase the overall commercial or residential yield under the planning scheme, adversely diminish the amenity in the area and/or be likely to have a significant effect on the integrity of the Natura 2000s sites in the vicinity (individually or in combination), having regard to the submissions received the Board is of the opinion that in so limiting its considerations and potential impact that the national strategic objectives and the objectives of the Urban Development and Building Height Guidelines could not be fully realized or considered.

Further, noting the submissions received and having regard to the national policy objectives, the Board considered that the full scope of potential environmental impacts of the proposed amendments have not been adequately considered such as would demonstrate the proposals are the most environmentally sustainable response to the Urban Development and Building Height Guidelines and requirements of national policy objectives. Therefore, it is considered that obligations and requirements in respect of Strategic Environmental Assessment legislative provisions (SI number 435/2004) may not have been met, specifically in terms of how the plan (that is, proposed amendments to the scheme) deals with its relationship with other relevant plans, the current state of the environment and likely evolution thereof without implementation of the plan or modifications of the plan, the likely significant effects on the environment with particular regard to population, climate and material assets, and an outline of the reasons for selecting the alternatives dealt with.

In deciding not to accept the Inspector's recommendation to allow the amendments, the Board is not satisfied that the proposed amendments fully reflect national policy objectives to deliver compact growth and/or the promotion of height and urban development as outlined in the Urban Development Building Height Guidelines, given the very minimal changes proposed. With no material increase in residential or employment provision, it is unclear how this could assist in the delivery of or further enhance the objective for compact growth or increased height and density.

The Board is not satisfied that the proposed amendments constitute proper planning and sustainable development of this strategic land bank, and are further not satisfied, that in their decision not to utilize such a strategic land bank for increased population and employment, that the potential environmental impact for other relevant plans within the City and suburbs has been considered, as would have been provided for were a Strategic Environmental Assessment to have been carried out.



The Board having reviewed the scheme, proposed amendments, planning authority's report, Inspector's reports, and the third party submissions, are not satisfied that meaningful engagement with all third party submissions has occurred, and that all reasonable alternatives have been adequately assessed, or that the impact of such alternatives including the preferred option on relevant plans outside of the Strategic Development Zone, has been considered in particular where the Strategic Development Zone scheme encourages/dictates that population and increases in building height and density are met outside of the Strategic Development Zone.

### Matters Considered

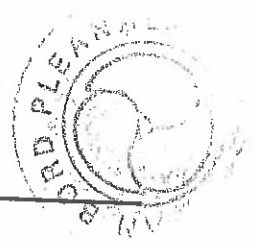
In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

  
Paul Hyde

Member of An Bord Pleanála

duly authorised to authenticate  
the seal of the Board.

Dated this 23<sup>rd</sup> day of MARCH 2021.



**DECISION QUASHED**