



An  
Bord  
Pleanála

## **S. 6(7) of Planning and Development (Housing) and Residential Tenancies Act 2016**

### **Inspector's Report on Recommended Opinion ABP-302706-18**

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<b>Strategic Housing Development</b>	265 build to rent apartments, café, communal facilities and associated site works
<b>Location</b>	Lands at former Dulux Factory site, Davitt Road, Dublin 12.
<b>Planning Authority</b>	Dublin City Council
<b>Prospective Applicant</b>	Durkan (Davitt Road) Ltd.
<b>Date of Consultation Meeting</b>	9 November 2018
<b>Date of Site Inspection</b>	5 November 2018
<b>Inspector</b>	Una Crosse

## 1.0 Introduction

Having regard to the consultation that has taken place in relation to the proposed development and also having regard to the submissions from the planning authority, the purpose of this report is to form a recommended opinion as to whether the documentation submitted with the consultation request under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016 - (i) constitutes a reasonable basis for an application under section 4, or (ii) requires further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

## 2.0 Site Location and Description

The site which has a stated area of 0.8266 hectares currently accommodates structures associated with the former Dulux Factory. Located on Davitt Road in Dublin 12 the site is bounded to the North by the Grand Canal, the Red Luas line and the Davitt Road with the Luas Goldenbridge Stop directly opposite the site. The site addresses Galtymore Road to the south with mature residential development comprising two-storey houses further south. To the west the site is adjoined by a 3-storey residential development with 2-storey residential development to the west in the form of 3- pairs of semi-detached dwellings which address the Benbulbin Road and its junction with Davitt Road and Galtymore Road to the north and south respectively.

## 3.0 Proposed Strategic Housing Development

Permission is sought for a build to rent development which proposes the following:

- 265 build to rent apartments;
- Mix of 124 one bed units, 21 two-bed units (3 person) and 121 two-bed units (4 person);
- Four blocks of development - A & B addressing Davitt Road and C & D addressing Galtymore Road - effectively creating two courtyards (A & C and B &

D) with a wide courtyard/boulevard through the site connecting Davitt Road and Galtymore Road;

- Block A is an 'L' shaped structure which addresses Davitt Road (west side of site) and runs along the central boulevard/courtyard. It is 3 storeys as it adjoins the western boundary rising to 7 at the centre of the site and reducing to 6 as it addresses Galtymore Road set back from same;
- Block B is an L' shaped structure which addresses Davitt Road (east side of site) and runs along the central boulevard/courtyard mirroring Block A. It is 3 storeys as it adjoins the eastern boundary rising to 7 at the centre of the site and reducing to 6 as it addresses Galtymore Road set back from same;
- Block C addresses Galtymore Road (west side of site) and is 4-storeys in height;
- Block D addresses Galtymore Road (east side of site) and is 3-storey as it adjoins the eastern site boundary rising to 4-storeys;
- 120 car parking spaces at basement level with 440 bicycle spaces;
- Public Open Space of 3,356 sq.m (40.6% of the site) is proposed comprising a western private courtyard of 770 sq.m, an eastern private courtyard of 920 sq.m and a central boulevard described as a semi—private courtyard of 1,516 sq.m. A roof terrace on the 5<sup>th</sup> floor of Block of 150 sq.m is also proposed comprising an outdoor area of the communal space.
- Private open space – balconies;
- Heights ranging from 3-7 storeys with tallest element 24.5m in height;
- Communal facilities comprising a reception area, games room, business centre, media centre, shared kitchen and café which are located on the ground floor of Block B with the communal lounge on the 5<sup>th</sup> floor of Block A;
- Demolition of existing structures on site (4,148 sq.m);
- Access proposed from Galtymore Road to south of the site;
- Proposed density of 329 units per hectare;

## 4.0 Planning History

### 4.1. On Site

None of relevance

#### 4.2. **Site in Vicinity**

**Reg. Ref. 3051/15** – redevelopment of former Heidelberg/Miller Building on Davitt Road (c.0.38ha) with permission for a 3-4 storey mixed use development (6,542 sq.m in area) including office (3,397 sq.m), retail unit and 25 residential units.

### 5.0 **National and Local Planning Policy**

#### 5.1. **Section 28 Ministerial Guidelines**

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant S.28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
- Design Manual for Urban Roads and Streets'
- Sustainable Urban Housing: Design Standards for New Apartments (2018)
- Childcare Facilities – Guidelines for Planning Authorities

Also of note is:

- Draft Urban Development and Building Height Guidelines 2018

#### 5.1.1. **National Planning Framework**

Chapter 4 of the Framework addresses the topic of 'making stronger urban places and sets out a range of objectives which it is considered will assist in achieving same. National Policy Objective 13 provides that 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. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

#### 5.1.2. **Dublin City Development Plan 2016-2022**

The relevant statutory plan for the area is the Dublin City Development Plan 2016-2022 wherein the site is zoned Z1 the objective of which is 'to protect, provide and improve residential amenities.

Section 16.7 of the Plan deals with building height wherein the following applies: Within 500m of a DART station- Maximum height 24m/8 storeys for residential. The area of the site addressing Davitt Road is located within the Grand Canal Conservation Area.

## **6.0 Forming of the Opinion**

Pursuant to section 6(7) of the Act of 2016, regard is had in the forming of the opinion to the documentation submitted by the prospective applicant; the planning authority submission and the discussions which took place during the tripartite consultation meeting. I shall provide a brief detail on each of these elements hereunder.

### **6.1. Documentation Submitted**

The prospective applicant has submitted information pursuant to section 5(5)(a) of the Planning & Development (Housing) and Residential Tenancies Act 2016 and Article 285 of the Planning and Development (Strategic Housing Development) Regulations 2017. This information included, inter alia, a Completed Application Form, Cover Letter, Description of proposal, Planning Report, Statement of Consistency, Pre-planning minutes and notes, Environmental Screening Statement, Justification Report, Architectural Design Statement, Site location Map, Site Layout Plan, Architectural Drawings and Schedule all within A3 Booklet, Housing Quality Assessment, Part V proposals, Landscape Drawings and Schedule, Engineering Drawings and Schedule, Pre-planning submission Drainage Report including Irish Water COF, Flood Risk Assessment, Construction and Environmental Management Plan, AA Screening Report, Energy and Sustainability Report, Utility Report and Drawings, Traffic Impact Assessment, Massing Photomontages, Building Lifecycle Report, Crèche Facilities Assessment;

Section 5(5)(b) of the Act of 2016 requires the submission of a statement that, in the prospective applicant's opinion, the proposal is consistent with both the relevant objectives of the development plan or local area plan concerned, and the relevant

guidelines issued by the Minister under section 28 of the Act of 2000. These statements have been submitted, as required.

The applicant's case is summarised as follows:

- Strategic location of the site directly adjacent to the Luas and Dublin Bus Services with access to Dublin City Centre and employment centres such as St. James Hospital make it a favourable location for renters in Dublin City;
- Review of rental properties in Dublin 12 found only 20 to rent in September 2018 with knock on effect on rental affordability in the area;
- Lack of available rental accommodation in Dublin City has negative impact on employment sector with proposal contributing to available rental in Dublin 12;
- Proposal provides a host of communal facilities for tenants including gym, meeting rooms, café and communal lounge area;
- Planning gain achieved through provision of a north south link through the site between Galtymore Road and Davitt Road connecting to and from Luas stop;
- Proposal provides for regeneration of an infill site which has been largely vacant for a number of years providing a sustainable use of land;
- Proposal will be managed by a central management company to provide a streamlined operation of the development;
- Proposal will provide 27 social housing units under Part V;
- Proposal designed within context of zoning objectives for the lands, policies in the City Plan and established character of the area with the layout providing a high quality built environment with efficient use of land;
- Reduction in number of car parking spaces considered acceptable as per section 4.16 of New Apartment Guidelines which provides that in more central locations well served by public transport that car parking provision should be wholly eliminated or substantially reduced;
- Density of 329 units per hectare considered acceptable given brownfield site adjacent to public transport;
- Heights of 3-7 storeys proposed which will not be overbearing on surrounding development with proposal tapered to east, west and southern edges to

appropriately assimilate with proposal in accordance with height proposal in Dublin City Plan;

- Demographic profile of expected end users not envisaged to require crèche facility on site with a number of facilities in the area with capacity;
- Proposal supportive of NPF objectives through provision of much needed rental supply at a well located site proximate to high frequency public transport;
- Proposal represents an opportunity for the redevelopment of an under-utilised site assisting in reaching housing and population targets in the RPG's;
- Development complies with zoning objective, conservation designation and height polices;
- Mix proposed is acceptable in context of Guidelines which provide specifically for BTR at SPPR7 and SPPR8;
- Parking provision proposed acceptable in context of Guidelines and location adjacent public transport with Go-Car sharing scheme to be operated;

## 6.2. Planning Authority Submission

A submission was received by An Bord Pleanála on the 30th of October 2018 from Dublin City Council. The 'opinion' of the planning authority included, inter alia, the following:

- Concern that Statement of Consistency does not adequately address all requirements of Chapter 16 of City Plan in particular residential quality standards relating to - natural lighting, ventilation and sunlight; safety, security and acoustic privacy; and assessment of community facilities and social infrastructure and capacity of local schools;
- Additional level of detail required in order to consider impact of proposal on existing and future residential amenity and ability of local social and community infrastructure to absorb increase in population;
- Whilst height at 24.5m exceeds 24m set out in City Plan considered that exceedance is not material within context of overall scheme;

- While a high density development in the area is acceptable the residential area is characterised by low density development to south, east and west and it's the transition in scale rather than maximum height that PA remains concerned with;
- Considered that the massing of the 3-storey eastern gable abutting the residential units on Benbulbin Road requires revision;
- Serious concerns regarding northern elevation apartments at lower floor level onto Davitt Road regarding noise and dust generated by the busy road and Luas line with specific details for apartments including a noise impact assessment with mitigation measures demonstrating how the impact of noise and dust can be ameliorated;
- Ground level units should be raised above finished ground level to ensure balcony/terrace areas are not accessible from the public footpath (not immediately clear in the drawings);
- Screening details required for units where private open space abuts entrance lobbies with detail on A3 drawings not sufficient to adequately assess specific details for a development of this nature and appears no balcony on Apt. 507;
- Windows from living areas proposed on both western and eastern site boundaries at ground and first floor levels which is undesirable and may prejudice adjoining residential amenities and should be omitted;
- Mix of units together with aspects as proposed are acceptable;
- Notwithstanding compliance in terms of dimensions, further consideration of the level of residential amenity provided in these units not possible until revised Daylight and Sunlight Analysis and Noise Impact Assessment and appropriately scaled drawings are presented;
- Small number of units fall below minimum requirement for private open space however no objection but usability of some of the private amenity space requires further assessment following consideration of noise attenuation and mitigation measures which should be submitted for the scheme (Davitt Road);
- Daylight and sunlight analysis required to clarify that each unit will receive adequate levels with concerns that a number of apartments may not reach the



minimum standards resulting in a poor standard of residential amenity for occupants;

- Assessment required of how BRE standards can be achieved in internal courtyard communal spaces with concerns that height of the development may impact negatively on adjoining areas of private and communal open space with a study required;
- Applicants advised of need to provide additional communal facilities within the scheme with small communal spaces warranted at other areas within this large residential scheme;
- Childcare facilities justification considered acceptable;
- Social Audit required (SN5 & Section 16.10.4)
- Applicant requested to clarify how access to both eastern and western courtyards identified as private and semi-public courtyard are to be managed;
- Accepted that this sub-threshold development will not require the preparation of an EIAR;
- Parks Department reference : - potential for street planting along Davitt Road; provision of play area within the central open space or provision within each courtyard; and green roofs to be provided to all flat or gently sloping roofs to provide 70% of all the roof area;
- No objection from Drainage department with a number of recommendations and requirements outlined;
- Transportation Planning Division outlined a number of issues as follows:
  - Insufficient details on entry treatment/control measures at access from Galtymore Road with detailed drawings required;
  - Concern that inadequate car parking within the site would generate overspill car parking on the adjoining road network impacting on operation of bus network on Galtymore Road;
  - Car parking strategy and management plan required informed by analysis of Census, address how parking is assigned and managed and commitment to continual management;

- Reference to 3 spaces for car sharing but no confirmation from Go Car in relation to service provision;
- No motorcycle spaces proposed;
- Bicycle parking complies with Development Plan but below Guidelines Standards which would require 635 spaces but provision acceptable;
- No details provided of servicing in terms of vehicles and frequency with a swept path analysis required for proposed loading bay;
- Access to north/south courtyard to be clarified;

### 6.3. Response from Prescribed Bodies

A response has been received from Irish Water which is appended to this report.

### 6.4. Consultation Meeting

A Section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 9<sup>th</sup> November 2018, commencing at 2.30 PM. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting.

The main topics raised for discussion at the tripartite meeting were based on the Agenda that issued in advance and contained the following issues:

1. Elevational treatment
  2. Residential Amenity – Existing Properties and Proposed Units
  3. Parking and access;
  4. Open Space treatment and permeability
  5. Any other matters
- In relation to elevational treatment, An Bord Pleanála sought further elaboration/discussion/consideration of the following: the eastern and western elevations in respect of their treatment, the quality and detail of proposed materials and finishes and justification for the scale of the proposal in respect of the site context.
  - In relation to residential amenity, An Bord Pleanála sought further elaboration/discussion/consideration of the following: window openings on the eastern and western elevations, the amenity of apartments on the ground floor

addressing the Davitt Road and in particular private amenity spaces and detailing of same, sunlight and daylight analysis for proposed units and for open spaces.

- In relation to Parking and Access, An Bord Pleanála sought further elaboration/discussion/consideration of the following: the justification of the parking provision proposed and management of same in respect of the proposed use and the need to avoid overspill parking, the treatment of the entrance onto Galtymore Road and documentation from Go-car or similar to support shared car use.
- In relation to open space, An Bord Pleanála sought further elaboration/discussion/consideration of the following: the use and access to the spaces proposed, controlled access to open spaces and the proposed treatment of gates/boundaries and lighting of the public areas.
- In relation to any other matters An Bord Pleanála sought further elaboration/discussion/consideration of the following: the requirements of SPPR 7 in respect of a draft covenant/legal agreement, EIAR requirements and the existing surface water sewer in the vicinity of the site.

Both the prospective applicant and the planning authority were given an opportunity to comment and respond to the issues raised by the representatives of ABP. Those comments and responses are recorded in the 'Record of Meeting 302706' which is on file. I have fully considered the responses and comments of the prospective applicant and planning authority in preparing the Recommended Opinion hereunder.

## **7.0 Conclusion & Recommendation**

Based on the entirety of the information before me, it would appear that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

I have examined all of the information and submissions before me including the documentation submitted by the prospective applicant, the submissions of the planning authority and the discussions which took place at the tripartite meeting. I

have had regard to both national policy, via the s.28 Ministerial Guidelines, and local policy, via the statutory plan for the area.

Having regard to all of the above, I recommend that further consideration and/or possible amendment of the documents submitted are required at application stage in respect of the following elements: design and amenity which are set out in the Recommended Opinion below.

Having regard to the above, I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 6(7)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016, stating that it is of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act requires further consideration and amendment in order to constitute a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

I would also recommend that the prospective applicant be notified, pursuant to article 285(5)(b) of the 2017 Regulations, that specified information (as outlined hereunder) be submitted with any application for permission that may follow. I believe the specified information will assist the Board at application stage in its decision making process. I am also recommending that a number of prescribed bodies (as listed hereunder) be notified by the prospective applicant of the making of the application.

## **8.0 Recommended Opinion**

An Bord Pleanála refers to your request pursuant to section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Section 6(7)(a) of the Act provides that the Board shall form an opinion as to whether the documents submitted with the consultation request (i) constitute a reasonable basis for an application under section 4 of the Act, or (ii) require further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála is of the

opinion that the documentation submitted requires further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.

In the opinion of An Bord Pleanála, the following issues need to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could result in them constituting a reasonable basis for an application for strategic housing development:

### **Design and Amenity**

1. Further consideration and/or justification of the documents as they relate to the proposed design and amenity of the proposed development specifically in relation to, the following: a comprehensive justification of the scale of the proposed development at this location; and the elevational treatment of the eastern and western elevations of the proposed development which are highly visible along the Grand Canal. Furthermore, the documents should address, in detail, the potential impact on the residential amenity of adjoining residential properties to the east and west of the proposal as well as the amenity of the proposed ground floor units along Davitt Road. The further consideration of these issues may require an amendment to the documents and/or design proposals submitted at application stage.

Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that, in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission:

1. A report that specifically addresses the proposed materials and finishes of the proposed structures including specific detailing of materials and finishes, openings and privacy screening, landscaped areas, pathways, entrances and boundary treatment/s. The lighting of public spaces should also be addressed. Particular regard should be had to the requirement to provide high quality and

sustainable finishes and details which seek to create a distinct character for the development given its strategic location and the visibility of the site. The documents should also have regard to the long term management and maintenance of the proposed development.

2. A car park management plan which outlines in detail the level of parking proposed, how it is intended that it is assigned and managed and measures proposed to address visitor parking, bicycle parking and motorcycle parking.
3. A report that addresses residential amenity (both existing residents of adjoining development and future occupants of the proposed development), specifically how the development will limit the potential for overlooking and overshadowing. The report should include full and complete drawings including levels and cross sections showing the relationship between the development and adjacent residential units and adjoining public pathways. Details in relation to noise impact and mitigation for same shall also be included. A daylight and sunlight analysis should also be included.
4. A proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains in use as Build to Rent accommodation. There shall be a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residents units are sold or rented separately for that period (Your attention is drawn to the provisions of Specific Planning Policy Requirement 7 of the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2018)

Pursuant to article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is informed that the following authorities should be notified in the event of the making of an application arising from this notification in accordance with section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016:

1. National Transport Authority
2. Minister for Culture, Heritage and the Gaeltacht
3. Heritage Council
4. An Taisce — the National Trust for Ireland
5. Irish Water
6. Dublin City Childcare Committee

**PLEASE NOTE:**

Under section 6(9) of the Planning and Development (Housing) and Residential Tenancies Act 2016, neither the holding of a consultation under section 6, nor the forming of an opinion under that section, shall prejudice the performance by the Board, or the planning authority or authorities in whose area the proposed strategic housing development would be situated, of any other of their respective functions under the Planning and Development Acts 2000 to 2016 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

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Una Crosse

Senior Planning Inspector

November 2018