

An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-304210-19

Strategic Housing Development

Amendment to a permitted development Ref. No. DSDZ2896/18 and as amended by reg. ref. no. DSDZ4279/18. Permission sought for increase in units from 349 to 471 no. apartment units and the change of use of the permitted aparthotel development to co-living to provide for 105 no. shared accommodation units.

Location

Spencer Dock North, City Block 2,
Spencer Dock, Dublin 1

Planning Authority

Dublin City Council

Prospective Applicant

Spencer Place Development
Company Ltd.

Date of Consultation Meeting 27th May 2019

Date of Site Inspection 23rd May 2019

Inspector Joanna Kelly

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

- 2.1 The development site comprises of 1.26 hectares located at the junction of Mayor Street Upper and New Wapping Street, Spencer Place, Dublin 1. The site is bounded by Sheriff Street Upper to the north, Mayor Street to the south, New Wapping Street to the east and by a new north-south street proposed to the west. The development land forms part of the North Lotts Strategic Development Zone. It is noted that there is construction works currently being carried out on site.
- 2.2 The North Lotts pumping station is located in the centre of the site. The site is well served by public transport with the Luas red line running along the southern portion of the site and proposals for the DART underground station at Spencer Dock. Docklands commuter train station is approx. 5 mins from the site.

3.0 Description of proposed development

The applicant is proposing to amend a previously permitted scheme and provide an additional 122 no. residential units and change the use of a permitted aparthotel to shared accommodation.

The following details are noted:

Parameter	Site Proposal
Application Site	1.26 ha
Total No. of Units	471 no. units
Shared Accommodation	201 bedspaces (105 units)
Density	373 units per hectare as stated by applicant
Other Uses	None
External Space	1983sq.m.
Car Parking	78 no. spaces
Bicycle Parking	820 no. spaces
Part V	47 no. units

4.0 Planning History

There is an extant permission on the site which it is proposed to amend:

File Ref. No. DSDZ2241/19 Permission for amendments to previously permitted development Reg. ref. No. DSDZ2896/18 and as amended by DSDZ4279/18 comprising the provision of additional storeys on Block 1 (to the north) and Block 2 (to the south) increasing the maximum height of Block 1 from 7 no. storeys 927.5m) to a maximum height of 13 storeys (46.8m) and increasing the maximum height of Block 2 (27.5m) to 11 no. storeys (40.5m). The proposal will provide for an additional 122 no. residential units i.e. 471 units in total. The proposal also provides for an additional 27 no. units in the aparthotel. Applicant requested an extension of time on this application until 31st May 2019. This permission was refused on the basis that the proposed additional floors above the permitted maximum heights would not be consistent with the provisions of the planning scheme. In addition the failure to articulate individual elements and to the overall scale, bulk and massing of the structures the proposal would be unduly monolithic and injurious to the visual amenities of the area.

File ref. No. DSDZ4279/18 Permission granted for amendments to a previously permitted development. The primary amendments included an increase in residential units from 322 no. units to 349 no. units. Revised aparthotel layout to provide for 100 units (240 no. bed spaces). 80 no. car parking spaces and 524 bicycle spaces.

File Ref. No. DSDZ2896/18 Permission granted in August 2018 for the construction of 325 no. residential units and aparthotel in 2 no. blocks. Block 1 to the north of the site is 7 storeys and Block 2 to the south is part 6/part 7 storey. An aparthotel to the western portion of the site comprises of 102 units (216 no. bed spaces).

File Ref. No. SDSZ3367/15 Permission granted for the construction of a 7 storey over basement residential development accommodating 165 units.

Other relevant Applications

File Ref. No. DSDZ2088/19 A current application for City Block 7 seeking permission for amendments to permitted development resulting in an overall increase in floor area from 58,670sq.m. to 72,559sq.m. comprising of c. 10,986 sq.m. hotel and associated uses, c. 60,259sq.m. and c. 1,152sq.m. of retail/restaurant/café uses. Three additional storeys are proposed to Building 1b raising the height from 7 to 10 stories and Building 2 from 9 to 11 stories. The rooms in the hotel will increase from 204 to 264. Building 3 and 4 height will rise from 7 to 9 storeys. This application was refused as it is considered that the proposed additional storeys above the permitted maximum heights would not be consistent with the provisions of the planning scheme. It is considered that the proposed additional storeys would be unduly dominant and visually incongruous when viewed in the context of the existing quayscape on North Wall Quay, a conservation area, and the surrounding built environment. The proposal would also adversely impact on the setting of the former London and Northwestern Hotel, a protected structure, and other buildings of historic

interest in the vicinity, and would present an unduly monolithic appearance when viewed from the surrounding streets, thus being seriously injurious to the visual amenities of the area.

5.0 National and Local Planning Policy

5.1. National

Having considered the nature of the proposal, the receiving environment, the documentation on file, including submission from the planning authority, I am of the opinion, that the directly relevant section 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' (DMURS)
- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices')
- 'Childcare Facilities – Guidelines for Planning Authorities'
- 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2018
- Urban Development and Building Height, Guidelines for Planning Authorities.
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, August 2018.

Other relevant national guidelines include:

- Project Ireland 2040, National Planning Framework.
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

5.2. Local Policy

5.2.1 Dublin City Development Plan 2017-2023

Chapter 16 deals with development standards.

16.7.2 Height Limits and Areas for Low-Rise, Mid- Rise and Taller Development* (See Building Height in Dublin)

1. Planning applications will be assessed against the building heights and development principles established in a relevant LAP/SDZ/SDRA. Proposals for high buildings should be in accordance with the provisions of the relevant LAP/SDZ/SDRA in addition to the assessment criteria for high buildings and development plan standards. Chapter 15 provides guiding principles for the design of potential high buildings in SDRAs, where appropriate.

Assessment Criteria for Higher Buildings

All proposals for mid-rise and taller buildings must have regard to the assessment criteria for high buildings as set out below:

- Relationship to context, including topography, built form, and skyline having regard to the need to protect important views, landmarks, prospects and vistas
- Effect on the historic environment at a city-wide and local level
- Relationship to transport infrastructure, particularly public transport provision
- Architectural excellence of a building which is of slender proportions, whereby a slenderness ratio of 3:1 or more should be aimed for
- Contribution to public spaces and facilities, including the mix of uses
- Effect on the local environment, including micro-climate and general amenity considerations
- Contribution to permeability and legibility of the site and wider area
- Sufficient accompanying material to enable a proper assessment, including urban design study/masterplan, a 360 degree view analysis, shadow impact assessment, wind impact analysis, details of signage, branding and lighting, and relative height studies
- Adoption of best practice guidance related to the sustainable design and construction of tall buildings
- Evaluation of providing a similar level of density in an alternative urban form.

North Lotts SDZ Planning Scheme 2014

Chapter 4 deals with Economic Regeneration and Employment and specific objectives in respect of making quality residential neighbourhoods are provided in section 4.2.

Figure 18 indicates that the development site is a new potential landmark site. Section 4.10.4 identifies 5 hubs, Spencer Dock being where the site is located. The objective for the SDZ Planning Scheme is that all of the hubs achieve their own character through a combination of mixed-use, landmark buildings, significant open space and unique public realm. Section 4.10.4.1.4 The public square suggests that a range of 10-12 storeys at the upper end for Spencer Dock is appropriate.

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 will provide a brief detail on each of these elements hereunder.

6.1 Documentation Submitted

6.1.1 The prospective applicant has submitted information pursuant to section 5(5)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 and article 285 of the Planning and of the Planning and Development (Strategic Housing Development) Regulations 2017.

6.1.2 The information submitted included *inter alia*: a completed SHD Application form and cover letter including but not limited to, Schedule of documents; Statement of Consistency, Design Statement, Environmental report, Daylight/Sunlight report, Visual Impact Assessment, Engineering Services Report, Archaeological Study, Plans and particulars.

6.1.3 I have reviewed and considered all of the documents and drawings submitted.

6.2 Planning Authority Submission

6.2.1 In compliance with section 6(4)(b) of the Act of 2016 the planning authority for the area in which the proposed development is located, Dublin City Council, submitted a note of their section 247 consultations with the prospective applicant and also submitted their opinion in relation to the proposal. These were received by An Bord Pleanála on April 2019.

6.2.2 The planning authority's opinion refers to key planning considerations as follows:

- Site is zoned Z14 to seek the social, economic and physical development and/or rejuvenation of an areas with mixed use of which residential and Z6 would be the predominant uses.
- Site is located within the North Lotts and Grand Canal Dock SDZ. The planning scheme provides for an urban structure with both fixed and flexible elements. There are serious concerns that any piecemeal or ad-hoc alteration to that urban structure would set a precedent for further changes and would undermine the SDZ scheme.
- The proposal in terms of uses is considered to accord with the planning scheme.
- The site located adjacent to good quality public transport and within walking distance of the city centre is therefore suitable for a high-density development.
- There is concern that the proposed additional storeys would distort the relationship between the permitted new buildings and nearby existing building and that a more gradual transition in scale, which is provided for in the existing permission, is more appropriate.
- There are concerns that the proposed additional height, would present an unduly monolithic appearance when viewed from Sheriff St., New Wapping St and from Mayor St.
- The site may be capable of accommodating additional height, however, the proposed design approach, which seeks to add further height without the reassessment of the scale and massing of the development is not considered an acceptable design response. This is evident in the proposed 13-storey element to be located at the corner of Sheriff St. Upper and New Street, which results in a poor design response what would be bulky and inelegant.

- PA has significant concerns regarding the impact on the built form on the SDZ as a whole and the need for the scale of buildings permitted in the SDZ to reflect their function and their location relative to the location of the hubs within the SDZ area.
- Concern that the proposed additional height would present a monolithic appearance.
- A revised approach regarding the articulation and massing of the entire scheme is required in order to successfully mitigate against an overall monolithic appearance.
- Proposal not considered to have any impact in respect of flooding.
- Proposal not considered to be of sufficient height to result in microclimatic impacts.
- Proposal would not impact on telecommunications channels or microwave links.
- The amendments, by way of providing additional height over and above the prescriptive design criteria of the SDZ is contrary to the specific city block urban form/height requirements.
- As required under section 168 of the Planning Act, the Planning Scheme provides for an urban structure with both fixed and flexible elements. Each of the 20 City blocks to be developed provides for a maximum height (plus 1 extra storey depending on design), fixed street widths, and flexible interior courtyard areas (depending on whether the building proposed was for residential or commercial use). This provides for certainty and has proven to be extremely robust and successful to date.
- The proposal would not be consistent with the provisions of the SDZ planning scheme, would have a detrimental impact on the visual amenities of the area and would present an unduly monolithic appearance when viewed from the surrounding streets.
- All of the proposed units meet or exceed the relevant standards as set out in the Apartment Guidelines.
- While 44% of the units are dual aspect, there are serious reservations regarding the high percentage (56%) of single aspect units in the scheme and the impact on future residential amenity. Justification for the high proportion of single aspect units within the scheme, the lack of orientation towards a southern aspect and the corresponding impact on the residential amenity for future occupants.
- All units meet the storage requirements of the Guidelines.
- The development is considered to remain in compliance with the required qualitative standards and is therefore considered to be acceptable.

- There is, however, reservations regarding the possible impact on residential amenity for residents to the apartments on either side of the gym at 6th floor level. The potential noise and disruption from the gym may have an impact on the adjoining apartments.
- No significant changes are proposed to the consented informal play areas.
- A childcare facility impact assessment has not been provided.
- Shared accommodation model is different to the “cluster” arrangement comprising of a shared common living/kitchen area and a number of en-suite bedrooms accessible from the communal space.
- It would appear that the proposed format is creating what are effectively ‘self-contained’ residential units with each unit having its own living and kitchen facilities along with an ensuite bathroom to the bedroom. A clear justification and rationale should be provided for this approach.
- Similar concerns are relevant to the 2 bed cluster units which have a floor area of 57sq.m.
- Need to clarify the difference between the potentially self-contained bedroom units and studio and 2 bed apartments.
- No details of a social audit have been submitted.
- Open space appears to be broadly acceptable in terms of its overall location within the site however Parks Dep. has a number of issues to be addressed.
- It is accepted that the development is sub-threshold and will not require the preparation of an EIAR,
- The PA concludes that the issues outlined should be addressed in order to provide a reasoned and justified conclusion as to the appropriateness of this high density scheme on site.

Internal Reports

Transportation Planning Division report

- Clarity required regarding the presence of Dublin Bus stop No. 90 – New Wapping Street which is in close proximity to the northern access and the proposed signed zone for refuse collection.
- No details provided with regard the access arrangements to the Irish Water Pump station located adjacent to Block 1.

- Applicant to clarify the intended use of the 26 no. surface car parking spaces and that these spaces be considered for car share use.
- Concerns regarding the space set aside for cycle parking and the ability to accommodate the number of cycle spaces proposed.
- Extent of taking in charge is not clear.

Drainage Department

- SSFRA does not address all potential flood risks for the proposed development
- Development shall incorporate Sustainable Drainage Systems in the management of surface water, with a minimum requirements of a stage 2 treatment approach.
- Details shall be provided outlining how the proposed development will cater for tidal locking in accordance with the requirements of section 4.5.4.3.2 of the North Lotts and Grand Canal Planning Scheme.

Parks and Landscape Services

- Daylight and Sunlight assessment should extend to all public realm areas.
- Proposals to relocate existing services or install new one presented.
- At least 50% of all seating to provide backs.

Housing and Community Services

- John Spain and Associates on behalf of Spencer Place Development Company Ltd. Has previously engaged with the Housing Department and are aware of the Part V obligations pertaining to this site if permission is granted.

6.2 Submission from Irish Water

Applicant must install 160m of 400mm diameter water main on the site. No third party or statutory approvals will be required for this work.

7.0 Consultation Meeting

7.1 A Section 5 Consultation meeting took place at the offices of An Bord Pleanála on 27th May 2019, commencing at 12.00 pm. Representatives of the prospective applicant, Dublin City Council and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting.

7.2 The main topics raised for discussion at the tripartite meeting were as follows:

1. Building Height and Urban Design response having regard to comments set out in the planning authority's opinion
2. Rationale for the proposed shared accommodation format including provision of residential support services and amenities
3. Surface water management and Flood Risk to include comments set out in the planning authority's opinion from the Water Services Department.
4. Any other Matters

7.3 In relation to Building Height and Urban Design response having regard to comments set out in the planning authority's opinion, ABP representatives sought further discussion/elaboration on this issue and in particular the potential for the proposal to undermine the planning scheme's provisions in respect of maximum heights.

7.4 In relation to rationale for the proposed shared accommodation format including provision of residential support services and amenities, ABP representatives sought further discussion/elaboration on this issue having regard to the concentration of 2 bed unit format as shared accommodation, provision of common/communal facilities and how occupants would be enticed to engage with the shared living concept.

7.5 In relation to Surface water management and Flood Risk to include comments set out in the planning authority's opinion from the Water Services Department, ABP sought further elaboration/discussion on this issue.

7.6 In relation to Any other matters, ABP representatives sought further elaboration/discussion on EIAR, aviation, location of Dart underground vis-à-vis the site.

7.9 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 ABP-304210-19' 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.

8.0 Conclusion and Recommendation

8.1 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 and as amended by Section 50 of the Planning and Development (Amendment) Act 2018.

8.2 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 section 28 Ministerial Guidelines, and local policy via the statutory plans for the area.

8.3 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 elements that are set out in the Recommended Opinion below.

8.4 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.

8.5 I would 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.

9.0 Recommended Opinion

9.1 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.

9.2 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.**

9.3 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:

1 North Lotts Planning Scheme

Further consideration of documents as they relate to the overall objectives of the North Lotts Planning Scheme and the potential for the proposed development to give rise to 'ad hoc' proposals for increases in height which may undermine the planning scheme provisions particularly in relation to permitted maximum heights. A planning rationale/justification having particular regard to SPPR 3 of the Urban Development and Building Heights, Guidelines for Planning Authorities, 2018 as to why the proposal would not be considered premature pending the review of the planning

scheme in respect of building heights. Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

2. Urban Design Response

Further consideration of documents as they relate to the proposed increase in height and urban design response of the proposed blocks in this regard given the provisions of national and local planning policy which set out the need to ensure that development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm of the area. Consideration should also be given to how the proposed development would be consistent with the objective of the planning scheme which seeks to promote sustainable higher densities and quality innovative designs achieving generous standards of residential amenity for residents. Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

3. Shared Living Accommodation

Further consideration of documents as they relate to the proposed shared living accommodation format and a planning rationale/justification for such a format including the proposed quantum of two bed units considering the standards for minimum floor areas for apartments set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018. Consideration should also be given to the overall management and operation of the scheme in particular the shared accommodation component with greater clarity regarding the level of support and residential services to be provided and access to such services. Details as to how the proposal will provide future occupants with the opportunity to experience a shared community environment among residents of the scheme should be submitted. Particular regard should be given to section 5.17 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018. Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

4. Flood Risk and Surface water management

Further consideration of documents as they relate to flood risk and surface water management for the development lands. Regard should be given to the requirements of the Local Authority in respect of the site-specific flood risk assessment, incorporation of SUDS measures for the scheme and how the proposed development will cater for tidal locking having particular regard to the comments raised in the Water Services report submitted with the Planning Authority's report dated 7th May 2019. Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

9.3 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. Photomontages and cross sections at appropriate intervals for the proposed development including how the development will interface with contiguous lands/developments including extant permission not yet constructed.
2. All existing watercourses and utilities that may traverse the site including any proposal to culvert/re-route/underground existing drains/utilities should be clearly identified on a site layout plan.
3. A site layout plan which clearly identifies the full extent of areas to be taken in charge. Relevant consents to carry out works on lands that are not included within the red-line boundary. The prospective applicant is advised that all works should as far as possible be included within the red-line boundary.

4. A Building Life Cycle report as per section 6.13 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018
5. Details to address concerns raised by the Parks and Landscape Services Department as set out in their report 8th May 2019.
6. Information referred to in article 299B (1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 (if an Environmental Impact Assessment report is not being submitted).
7. Details of any measures required to prevent interference with aviation.

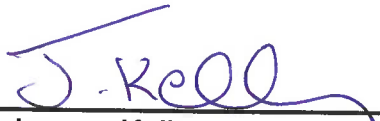
Pursuant to article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is informed that the following authorities should be notified in the event of the making of an application arising from this notification in accordance with section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

1. Irish Water
2. Minister for Culture, Heritage, and the Gaeltacht
3. Heritage Council
4. An Taisce – the National trust for Ireland
5. Transport Infrastructure Ireland
6. National Transport Authority
7. Irish Aviation Authority

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 2018 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.



Joanna Kelly
Senior Planning Inspector
7th June 2019

