



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-304571-19

Strategic Housing Development

Demolition of industrial buildings and construction of mixed-use development consisting co-working shared space with associated café/bar and 373 no. student accommodation.

Location

Brewery Block bounded by Newmarket, St. Luke's Avenue, Brabazon Place/Row and Ardee Street

Planning Authority

Dublin City Council

Prospective Applicant

Summix FRC Developments Ltd.

Date of Consultation Meeting

12th July 2019

Date of Site Inspection

7th July 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 has a stated site area in the application form of 0.0367ha which is considered to be a typo and should read 0.367ha. The site is bounded by St. Luke's Avenue to the north, Ardee Street to the west, Brabazon Street/Row to the east and Newmarket Street to the south. There are existing warehouse/industrial structures including a tower structure on the site. There is a protected structure, a two storey stone structure, at the junction of Newmarket Street and Brabazon Place which is in the ownership of the applicant but does not form part of the site and is under new lease to a third party.
- 2.2 No. 10 Ardee Street is also a protected structure located at the junction of Ardee Street and St. Luke's Avenue. There is an existing residential apartment block opposite the development site on Ardee Street. The plot of land to the east of the development site has been granted permission for a mixed-use development incorporating a hotel.
- 2.3 Pursuant to inspection, it is noted that there are existing student developments currently operational in the general vicinity of Newmarket Square and the wider area.

3.0 Description of proposed development

The applicant is proposing a residential development comprising of 373 no. purpose-built student accommodation bedspaces and c. 325sq.m. co-living shared space with associated café/bar.

Table 1: Unit Mix

Student Unit Type	No. of Units	No. of bed spaces
Studio unit	3	5
5 bed unit	12	60
6 bed unit	26	156
8 bed unit	19	152
Total Bed spaces	80	373

4.0 Planning History

Development Site

File Ref. No. 2812/17 Permission granted for 349 student bedspaces and co-working space on a portion of the site known as 'Brewery Block'.

File Ref. No. 5410/04 Permission granted in 2005 for 95 residential units

Lands immediately east of current development site

File Ref. No. 300431 / 3323/17 Demolition of buildings on site & redevelopment of site for mixed use purposes. Development is arranged in 4 blocks enclosing a central courtyard above lower ground level & basement with 112 car parking spaces & 195 bicycle spaces. The proposed western block is a part 5, part 7 & part 8-storey building over lower ground & basement levels providing a hotel. The proposed southern block is a part 5- & part 6- storey building over basement with 34 residential

units. North and south facing balconies are proposed with roof terraces at 5th floor level. The proposed northern block is a part 7- & part 8-storey building over lower ground & part double basement providing 58 residential units. The proposed eastern block is a part 4-, part 5- & part 6-storey building over lower ground & basement levels providing office floorspace

Lands South of the development site

File Ref. No. 3321/17 Permission for demolition of all existing buildings on site and the construction of a new 4-6 storey building above basement level to include indoor market hall/retail floor space and office space at no. 8 Newmarket and no. 18 Mill Street.

Lands South of the development site along Mill Street

File Ref. No. SHD – 30346-19 Permission granted for 235 student bedspaces, 37 built to rent units, and commercial/retail unit at Mill Street, Sweeney's Terrace and Clarence Mangan Road.

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'

- 'Urban Development and Building Heights, Guidelines for Planning Authorities, 2018'

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.
- 'Guidelines on Residential Development for 3rd Level Students (both 1999 and July 2005 versions)
- 'National Student Accommodation Strategy, Department of Education and Skills' 2018.

5.2. Local Policy

5.2.1 The Dublin City Development Plan 2016-2022 provides the overarching strategic framework for the city. The site has two land use zonings Z 10 and Z4.

The land use zoning **Z10** - To consolidate and facilitate the development of inner city and inner suburban sites for mixed uses, with residential the predominant use in suburban locations, and office/retail/residential the predominant uses in inner city areas.' The Plan provides that "lands zoned Z10 will cater for a relatively intensive form of development, and the range of uses permitted will be similar to Z5 but not as intensive or wide-ranging, reflecting the location of the sites and interactions with surrounding established land-uses."

The land use zoning **Z4** is to "provide for and improve mixed-services facilities".

5.5.12 Student Accommodation

To plan for future expansion of third-level institutions and to accommodate growth in the international education sector, there is a need for appropriately located high quality, purpose-built and professionally managed student housing schemes, which

can make the city's educational institutions more attractive to students from Ireland and abroad and can also become a revitalising force for regeneration areas.

It is a policy of the plan to

QH31: To support the provision of high-quality, professionally managed and purpose built third-level student accommodation on campuses or in appropriate locations close to the main campus, in the inner city or adjacent to high-quality public transport corridors and cycle routes, in a manner which respects the residential amenity and character of the surrounding area, in order to support the knowledge economy. Proposals for student accommodation shall comply with the 'Guidelines for Student Accommodation' contained in the development standards.

Variation No. 3 (September 2017) to the Dublin City Development Plan gives effect to the amended wording of Section 16.10.7 Guidelines for Student Accommodation.

5.2.2 Liberties Local Area Plan

Section 1.2 contains overarching objectives for the Liberties which include "to ensure that the individual character of different areas within the Liberties is protected and enhanced by contemporary and high-quality design of new buildings and to promote the principles of good urban design including improving connectivity and enhancing the legibility and permeability of the Liberties in relation to the wider cityscape".

5.0 **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.

5.1 Documentation Submitted

- 5.1.1 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.
- 5.1.2 The information submitted included *inter alia*: a completed Application form and cover letter including Irish Water Letter; Conservation Assessment; Statement of Consistency, Screening Report for AA, Ecological Impact Statement, Planning report, Archaeological Assessment, Rationale for proposed development, Material Contravention Statement, Water services and Flood Risk Assessment.
- 5.1.3 I have reviewed and considered all of the documents and drawings submitted.

5.2 Planning Authority Submission

- 5.2.1 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 26 June 2019.
- 5.2.2 The planning authority's opinion included the following matters:
- Details of planning history associated with the site and adjoining site
 - **Zoning** - The site is zoned 'Z4' "to provide for an improve mixed services facilities" and Z 10 "Inner Suburban and Inner City Sustainable Mixed-Use". The site is also partly located in a Conservation Area. The Z4 zoning relates to the northern section of the site fronting onto St. Luke's Avenue while the Z10 zoning covers the southern portion of the site with frontage onto Newmarket, Brabazon Place/Row and Ardee Street.
 - **Liberties local area plan** – The site is located within the Liberties LAP and within the designated Strategic Development and Regeneration Area,

SDRA16 Liberties and Newmarket Square. The site is also within the wider area of Zone of Archaeological Interest that covers an extensive part of the south inner city.

- **Liberties and Newmarket Square** – Overall guiding principles/objectives of the LAP are set out.
- **Development Plan Context** – Relevant development plan policies are set out in the Opinion. Reference is made to Variation (No. 3) of the Dublin City Development Plan 2016-2022 which requires the application to provide evidence of Student Accommodation in an area to allow the planning authority consider whether there is an overconcentration of facilities in an area, the adopted Plan required this assessment for an area of 0.25km of the proposal, Variation no. 3 extends this proposal to 1km.
- **EIAr Screening** – It is considered that a sub-threshold EIAr is not required for the proposed development as there are no “significant effects” associated with the proposed development.
- **Proposal** – Principle has been established on the site for residential development/student accommodation with a previous part 3 to 7 storey mixed use development on part of the subject site including a portion of land at the north eastern corner of the site within the ownership of DCC. The documents submitted with the application notes that the DCC elected members decided not to dispose of the land and therefore a new planning application is required. In addition, the current proposal also includes the omission of the protected structure warehouse building adjacent to the junction of Brabazon Place and Newmarket.
- **Development Plan Policy and Compliance** – Student accommodation and the co-working space with café/bar, which is a mixture of office, education and enterprise centre are permitted uses. The proposed development does not include any additional north-south routes through the subject site. The Liberties LAP does not set out any specific design standards for the subject site.
- **Plot Ratio and Site Coverage** – The plot ratio is 3.24 while the indicative plot ratio for lands zoned Z4 is 2.0 while it is 2.0-3.0 for lands zoned Z10 in the City Development Plan. Having regard to the nature of this key underutilised

site within the Newmarket area which is in the process of going through significant urban renewal and the need to create a profile on the streetscape, the proposed plot ratio is considered acceptable at this location. Site coverage is in compliance with the indicative standard.

- **Conservation-** There are no protected structures on the site but the site does adjoin two protected structures at the corner of Newmarket and Brabazon Row. There is a further protected structure at No. 10 Ardee Street, adjacent the north western corner of the subject site. Documentation on file indicates that the structures have been omitted from the site due to the fact that the existing tenant, MT Oils have a leasehold interest which entitles them to remain in the building. A conservation report has been submitted in which the buildings and their history are described in detail. There is a disused warehouse building along the southern boundary. This has a façade that is similar to that of the protected structures. The conservation report notes that having regard to the quality of the façade, it is proposed to retain the stone façade of the warehouse, building up to form the main entrance to the subject scheme. There are brick vaults located beneath the concrete warehouse building located in the south western portion of the subject site. The vaults run in a north-south direction through the centre of the subject site. The planning report notes that the brick vaults will be brought back into the heart of the proposed scheme by providing a visual feature for residents. The applicant has not submitted any details regarding the potential to integrate the existing protected structure warehouse building adjacent to the junction of Brabazon Place and Newmarket into the development until such time that it is vacated. It is recommended that additional details are forwarded in this regard.
- **Student Accommodation** – The planning report submitted includes a rationale for the proposed student accommodation. There are 16 no. permitted student accommodation schemes within a 1km radius of the subject site. It is considered that the proposed provision of student accommodation on the site is acceptable and has already been established under the previous permission.
- **Design** – The design proposed would be contemporary in nature with a stepped height arrangement which helps to break up the elevations of the

proposed development. The design of the schemes fronting Newmarket, St. Luke's Avenue and Brabazon Row is acceptable in principle. However, there is a lack of detail regarding the impact of the proposal on the future development of the adjoining portion of the land at the north-eastern corner of the site within the ownership of DCC. PA has some concerns about the elevational treatment proposed along Ardee Street with a lack of window openings and glazing. It is recommended that the applicant reconsider the ground floor treatment of this elevation to provide for a more animated elevation which would help provide more activity and passive security along this street.

- **Height** – The maximum overall height of the proposed development is 27.26m along St. Luke's Avenue. It is noted that ABP permitted a scheme which had an overall height of 28m on a site adjacent to the site 300431-17. The Liberties LAP prescribes a general height of 15m for a portion of the site fronting onto Newmarket. The proposal along the southern elevation onto Newmarket Square has a height of c. 16.8m which slightly exceeds this policy in the LAP. The PA has no objection in principle to the proposed height. It is considered that the visual impact of the proposed development is acceptable.
- **Communal Amenity Space** – This space appears to be in compliance with the provisions set out in the development plan.
- **Open Space** – Only the main courtyard and the 5th floor terrace have been assessed for sunlight have been classified as 'amenity' space due to overshadowing in some areas. The combined internal and external amenity space equates to 1,976 sq.m. which equates to 5.25sq.m. per bedspace which is in compliance with the development plan. A daylight and sunlight assessment has been submitted for the proposal. The study notes that sunlight in the proposed ground level courtyard is lower than the recommended levels due to site constraints but this will be compensated by the proposal for a roof terrace which will receive high levels of sunlight throughout the year.
- **Statement of Consistency** – PA is satisfied that the application is consistent with the relevant national, regional and local policies.

- **Statement of material contravention** – This statement is noted and refers to the Urban Development and Building Heights – Guidelines for Planning Authorities which has been adopted since the date of lodgement of the pre-application documents with ABP.
- **Conclusion** – Applicant should address items raised in the Opinion.

Comments from other sections:

Transportation Planning Division – Consideration should be given to inter alia increasing the width of the footpath along St. Luke’s Avenue to improve pedestrian permeability in particularly adjacent to the existing bus stop. Cycle parking should meet provisions of development plan.

Drainage Report – Clarification required regarding the surface water management strategy. A revised flood risk assessment for the proposed development addressing any potential flood risk as a result of the site being located adjacent to the Flood Zone B (Poddle River) and any potential flood risk from soakway design exceedance storm event to the proposed development and the adjacent area.

Conservation Officer’s report – Objective should be to retain as much of the historic fabric as possible and ensure sustainable and appropriate use of the buildings/fabric in accordance with best conservation practice. The surviving warehouse buildings that adjoin the protected structure in the southeast corner of the site are part of the former brewery complex as depicted on the OS map of 1907.

5.3 Submission from Irish Water

A submission was received from Irish Water and is available on file. In summary, the submission states that a Confirmation of Feasibility for this development issued and reconfiguration of the water network in the area must be carried out to accommodate this development. No statutory or third-party consents will be required for these works other than road opening licences from the local authority.

Consultation Meeting

- 6.1 A Section 5 Consultation meeting took place at the offices of An Bord Pleanála on 12 July 2019, commencing at 11.30 am. 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.
- 6.2 The main topics raised for discussion at the tripartite meeting were as follows:
1. Built Heritage and conservation to include urban design response and consideration of issues raised in Conservation Officer's report.
 2. Residential Amenity to include residential standards and impact on surrounding residential amenity
 3. Surface water management and flood risk having regard to comments from Drainage Division of Dublin City Council
 4. Any other matters
- 6.3 In relation to Built Heritage and conservation to include urban design response and consideration of issues raised in Conservation Officer's report, ABP representatives sought further discussion/elaboration on the site's context and extant proposals on contiguous sites which should be considered in terms of ensuring a coherent and appropriate urban design response, rationale for not including protected structure within the site and the long-term survival of the structure and clarity as to whether the tower was a protected structure.
- 6.4 In relation to Residential Amenity to include residential standards and impact on surrounding residential amenity, ABP representatives sought further discussion/elaboration on this matter.
- 6.5 In relation to Surface water management and flood risk having regard to comments from Drainage Division of Dublin City Council, ABP representatives sought further elaboration/discussion on this matter.

- 6.6 In relation to AOB, ABP representatives indicated that a student accommodation report of all such accommodation within 1km would be required, all plans should be labelled clearly with blocks clearly indicated, clarity regarding IW letter re network configuration and reference was made to a possible incorrect site area in the application form.
- 6.7 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-304571-19' 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.

7.0 Conclusion and Recommendation

- 7.1 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 as amended by the Act of 2018.
- 7.2 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 plan for the area.
- 7.4 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 **constitute a reasonable basis** for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 7.5 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

- 8.1 An Bord Pleanála refers to your request pursuant to section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016 as amended. 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.
- 8.2 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 **constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.**
- 8.3 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. Further planning justification for the omission of the existing protected structure within the applicant's ownership at the corner of Newmarket Street and Brabazon Place/Row and/or consideration of the inclusion of the said lands and works to the protected structure so as to ensure the long-term survival of this protected structure.
 2. Photomontage images and cross-sections at appropriate intervals to illustrate the visual impact of the proposed development in the emerging surrounding streetscapes having specific regard to extant permissions on contiguous sites

including the hotel development to the east of the site and the permitted development to the south at no. 8 Newmarket and a rationale for the proposed design strategy in this context.

3. A site-specific flood risk assessment that adequately addresses the items raised in the Engineering Department - Drainage Division's report dated 21/06/2019. The prospective applicant is advised to liaise with the planning authority regarding surface/storm water proposals prior to making an application.
 4. A statement as to the impact the proposed development will have on residential amenities in the immediate area and how such impacts if any have been mitigated.
 5. A site layout plan indicating the full extent of any existing and/or proposed way leaves within the site if applicable to the development site.
 6. Landscaping proposals including an overall landscaping masterplan for the development site. Details pertaining to the quantity, type and location of all proposed hard and soft landscaping including boundary treatments should be submitted. A cross section through the central courtyard should be submitted.
 7. Details in respect of the proposed co-working and commercial area including inter alia management and servicing proposals.
 8. Relevant consents to carry out works on lands which 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.
- 8.4 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. The Heritage Council
3. Department of Culture, Heritage and the Gaeltacht
4. An Taisce – the National Trust of Ireland

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.



Joanna Kelly

Senior Planning Inspector

23rd July 2019