



An  
Bord  
Pleanála

## Inspector's Report ABP-305603-19.

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<b>Development</b>	Amendments to build to rent residential development authorised under reg. ref 3900/18 to comprise an additional floor containing 7 no. units and alteration to external finishes.
<b>Location</b>	3 Poplar Row with service access from Annesley Place, Ballybough, Dublin 3.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	3541/19.
<b>Applicant</b>	Bartra Property Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Bartra Property Limited.
<b>Observer</b>	None.
<b>Date of Site Inspection</b>	19 <sup>th</sup> February 2020.
<b>Inspector</b>	Mairead Kenny.

## 1.0 Background

The permitted development at this site was granted by Dublin City Council under reg. ref. 3900/18 on 23<sup>rd</sup> May 2019. Condition 4 required two amendments:

- 4. (a) To omit one typical storey resulting in a five storey building with an additional setback storey.
- 4 (b) The proportion of brick to be increased.

The permitted development provides for 39 units for the 'build to rent' (BTR) market. The Urban Development and Building Height Guidelines came in prior to the making of a decision and were referenced in the final planner's report.

The proposal submitted initially sought permission for 52 no. units in a 7 storey block, which was modified to set back the upper floor in response to a further information request. The planning authority concerns relating to height remained and condition 4(a) was attached reducing the development to a permitted 5 storey plus set back additional floor. A first party appeal was withdrawn. No development has commenced on the site.

The current application essentially seeks removal of condition 4(a) and (b). If permitted the development would be 6 storey with an additional setback floor and with a higher proportion of render at the front facade.

## 2.0 Site Location and Description

The location is of relatively high profile at the crossing of the Tolka River from Fairview / Clontarf. The location may be described as an inner suburban location and the dominant building type is of small two-storey terraced houses / commercial buildings. The site is located just south of Annesley Bridge. Fairview Park is to the northeast of the bridge and to the south-east is a fire station. The site is positioned at the south-west of the bridge off the North Strand Road. The character of this area is defined by the relatively wide road and there is in general a lack of landmark buildings.

The site is at Poplar Row which is part of the regional route from Drumcondra to the east / north-east. The site and the immediate environs has a history of industrial use

as a result of which and in contrast to the general pattern in the area there are a number of large plots of land. The subject site is one such plot and it was most recently in use as a car dealer outlet. The site has frontage onto Poplar Row and a minor access onto Annesley Place to the west. The uses at the adjacent plots are a store (in use apparently for storage by the Abbey Theatre) and a former bank to the east which has been subject of a recent appeal in relation to an increase from a permitted 5 storey to an 8 storey proposal. About half way across the frontage of the site and to the west is the 1930s block of flats designed by Herbert Simms. At the southern side of Poplar Row and to the west is a 5 storey residential development which is nearing completion and a four storey residential development dating perhaps to the early twenty first century. Opposite the site and to the north-east are two storey developments.

Photographs which were taken by me at the time of my inspection are attached.

### **3.0 Proposed Development**

3.1. The proposed development as described in application may be summarised as:

- Amendment to the 'build to rent' permitted under reg. ref 3900/18.
- To involve omission of condition 4 attached to that permission.
- Amendments to comprise an additional floor containing 7 no. dwelling units.
- To result in an increase from 39 no. permitted to 46 no. residential units.
- To increase the height to 7 storeys with a set-back seventh-storey.
- Provision of a higher proportion of render on the front (north) elevation.

3.2. The application form details indicate as follows:

The floor area of the proposed development is 560.16 m<sup>2</sup>.

- The floor area of the permitted development is 3226.142 m<sup>2</sup>.
- This would result in a plot ratio of 2.78 on the site.

3.3. The application was accompanied by the following reports:

- Planning Statement prepared by Jim Brogan Planning and Development Consultant.

- Urban Design Statement prepared by Doyle Kent Planning Partnership Ltd.
- Information note regarding materials by Sean Harrington Architects.
- Design note on the shadow cast analysis prepared by JV Tierney and Co-Mechanical Electrical and Sustainable Engineers

3.4. The following reports which were included with the parent application reg. ref 3900/18 are referenced as being noteworthy in relation to the current application:

- Details of agreement in principle with DCC in relation to compliance with Part V of the PDA, the relevant validation letter and details of costs – these have been resubmitted with the current application.
- Engineering Services report prepared by Cronin and Sutton Consulting.
- Appropriate Assessment Screening report
- Outline Construction Management Plan prepared by Cronin and Sutton Consulting.
- Flood Risk Assessment prepared by Cronin and Sutton Consulting.

## 4.0 Planning Authority Decision

### 4.1. Decision

The planning authority decided to refuse permission for the reasons summarised below:

- The proposed increase in height and northern elevational treatment would result in the permitted development being **visually incongruous and failing to integrate successfully** with the existing streetscape and built environment and the existing permitted streetscape on Poplar Row and North Strand Road **or to enhance the existing character and built environment** of the area and would therefore be contrary to the development plan and to the Urban Development and Building Height Guidelines.

### 4.2. Planning Authority Reports

#### 4.2.1. Planning Reports

The main points of the planner's report include:

- A detailed rationale was set out under reg. ref. 3900/18 in the planner's report in relation to condition 4. The height was subject of a further information request wherein the planning authority indicated serious concerns relating to the height of the development which 'does not comply with the current height policy' of 16m in the development plan. The development was deemed to be visually incongruous.
- The planner's report under reg. ref. 3900/18 noted that in general the site meets the criteria for the provision of additional height but in view of the five-storey height at the corner and the protected structures (four-storey) it is not considered appropriate for the proposed development to provide for stepping up to 7 storeys in the centre of the street and a more suitable height, which would be in keeping with the departmental guidelines would be six storeys.
- The reduced height would address overshadowing and the impact on the setting of the flats. The specialist report provides insufficient detail.
- There has been no change to the planning and development context pertaining to the site in the interim period since the issuing of the parent permission and the current application.
- There remain concerns relating to the impact of the 7-storey building as proposed on the streetscape and surrounding context both on N. Strand Rd and in the context of the existing 4-storey residential blocks.
- The parent permission was assessed in accordance with the criteria in the Urban Development and Building Heights Guidelines and permission granted for a 6-storey building, which is over the 16 m height set out in the development plan.
- A 7-storey building was considered to be non-compliant with the guidelines at the scale of district/neighbourhood / street in terms of responding to its overall natural and built environment and making a positive contribution to the urban neighbourhood and streetscape.
- A 7-storey building was considered in terms of the criteria in the guidelines in relation to the scale of the site or building and the requirements that form,

massing and height be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light, to be incongruous with the existing permitted pattern of development in the area including the permitted five-storey building at N. Strand Rd and Poplar Road and existing four-storey flats.

- The applicant's case for increased height on the site was made in light of the application submitted for increased height at the adjoining site to the east (reg. ref 3228/19) and permission has been refused in the interim period a decision on a first party appeal is due.
- Condition 4(b) was addressed in the planner's report under reg. ref. 3900/18, which indicated concern about the amount of render and durability.
- The alterations to the composition of the façade would have adverse implications for the elevation. The applicant's comment regarding a single management entity and the incentive to protect property value is noted.
- The rationale for the balance of brick and render in aesthetic terms as presented in the information note of Sean Harrington architects is also noted.
- The concerns remain. Permission should be refused.

#### 4.2.2. Other Technical Reports

The Waste Management Division report sets out requirements regarding construction and demolition and standards for apartment blocks in the management of waste.

The Drainage Division report sets out no objection subject to conditions.

#### 4.3. **Prescribed Bodies**

No submissions.

#### 4.4. **Third Party Observations**

None.

## 5.0 Planning History

### 5.1. On site

- 5.1.1. Under **reg. ref. 3900/18** permission was granted for redevelopment of the former car dealers to provide for a 'build to rent' residential apartment development which was described as intended for use as a long term rental housing scheme. A first party appeal under 304256 was withdrawn.
- 5.1.2. Under the original application documentation permission was sought for a total of 52 no. apartments in a 7 storey building and ancillary development.
- 5.1.3. The development was modified by plans and particulars to include a reduction in the number of residential units to 46 no. and a recessed upper floor.
- 5.1.4. Permission was granted subject to conditions including condition 4 which required
- removal of one typical storey (resulting in a five-storey building with an additional set-back storey)
  - an increase in the proportion of brick on the front elevation
- for the stated reason related to visual amenity and to reduce the impact on the setting of the protected structure opposite.

### 5.2. Adjacent land

- 5.2.1. **ABP-305293-19 (reg. ref.3228/19)** related to a first party appeal against the decision of the planning authority to refuse permission for the following development at the site of the former bank at the corner of Poplar Row and North Strand Road:
- An amendment to planning reg. ref 3601/18.
  - An increase in height from the previously approved 5 storey (14 apartments and ground floor commercial development) for an increase in height to 8 storeys (20 no. apartments) and to include balconies and other development.
- 5.2.2. The Board upheld the decision of the planning authority. The reason for refusal was that having regard to the existing permission, to the design scale and massing of the proposed development and its relationship with the adjoining two-storey streetscape on North Strand Road, the proposed increase in height over that for which

permission exists would result in the development being visually obtrusive and incongruous, failing to integrate successfully with the existing streetscape, the character of the area and the overall built environment. The proposed development would not make a positive contribution to the urban neighbourhood and streetscape, would be contrary to the provisions of the development plan and the building heights guidelines and would seriously injure the visual amenities of the area. That decision was in line with the decision of the planning authority. As part of the appeal the applicant submitted revised designs showing one floor omitted.

## **6.0 Policy Context**

### **6.1. National Planning Framework**

- 6.1.1. The NPF sets high level objectives for urban development and provides that at least half of all future growth will be in the main cities. Development through use of infill and brownfield sites particularly where supported by high quality public transport is supported. In the assessment of development proposals the NPF signals a move from rigidly applied blanket standards to performance related criteria.

### **6.2. Urban Development and Building**

- 6.2.1. The guidelines set down development management assessment criteria which shall be satisfied and which relate to the scale of the relevant city / town, the scale of the district / neighbourhood / street and the scale of the site / building.
- 6.2.2. It is required that these guidelines be considered in conjunction with other policy guidelines.

### **6.3. Sustainable Urban Housing: Design Standards for New Apartments 2018.**

- 6.3.1. Build to Rent are subject to particular provisions under SPPR 8 which sets requirements relating to communal facilities and management. The promotion of BTR and specific development plan policies relating to this sector is advised.
- 6.3.2. Heights and orientation of blocks shall ensure adequate sunlight reaches communal open spaces.



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

The site and the lands at the opposite side of the North Strand Road is zoned Z4 the objective of which is 'to provide for and improve mixed service facilities'. This zoning objective allow for District Centres in which locations, particularly where served by good public transport services, higher densities of development will be permitted. New developments are required to enhance the attractiveness and safety of District Centres.

In the immediate vicinity the zonings relate to residential amenity.

The site is outside of the designated inner city and the plan provides for a height of up to 16m.

Poplar Row Flats are identified as a protected structure.

The Tolka River corridor to the north is a Conservation Area.

#### **6.5. Natural Heritage Designations**

The South Dublin Bay and River Tolka Estuary SPA is almost 800m to the east.

The South Dublin Bay SAC is over 3km to the south east.

North Dublin Bay SAC and Bull Island SPA are 4km to the east.

### **7.0 EIA Screening**

Having regard to the limited nature and scale of the proposed development, the character of the area and the brownfield nature of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **8.0 The Appeal**

#### **8.1. Grounds of Appeal**

The grounds of the appeal include:

- The publication of the Urban Development and Building Heights Guidelines for Planning Authorities represent a very significant material change in circumstances affecting the consideration of the issue of height.
- A 7 storey building including a recessed top storey constitutes an appropriate development on the subject site.
- The JV Tierney report indicates that the additional floor as proposed would have minimal impact in terms of overshadowing on the buildings to the north.
- The Urban Design Appeal Statement of Doyle Kent Planning Partnership Ltd is referenced in terms of visual impact on streetscape and on the setting of the protected structures. The area is undergoing transformative change but is not of particular significance except for the Poplar Road flats which were designed by Herbert Simms.
- The site and its environs is a very favourable setting for intensification of the scale of development as per the Urban Development and Building Heights Guidelines and the decision to refuse for the additional floor is not fully in keeping with current policy. The development as proposed with seven floors satisfied the criteria referred to in SPPR 3.
- The overall height will have no adverse impact on the setting of the flats which will remain a strong horizontal presence on the street and the additional floor will not impinge on any important views of the flats which in any event are restricted.
- The Council decided that the 7 storey building was not appropriate taking into account the five-storey building permitted on an adjoining site (reg. ref. 3601/18) and the Herbert Simms designed flats. The permitted five-storey building decision 3601/18 predated the Building Heights Guidelines and is under appeal (ABP-305293).
- In February 2008 permission was granted by the City Council for development of an 8 storey residential building (4 to 8 storeys over basement) at the site immediately adjoining the flats and there was no issue raised in the assessment of that project which regard to its height or its proximity to the protected structures.

- The enclose note of Sean Harrington Architects addresses the design and external finishes.

## 8.2. **Planning Authority Response**

No substantive response has been received from the planning authority.

## 8.3. **Observations**

None.

## 9.0 **Assessment**

### 9.1. **Overview**

- 9.1.1. As set out in the further information request of the planning authority, the reports of the planning officials and the stated reason the sole concern which lead to condition 4(a) related to the securing of a development of an appropriate height in this central position in the block. While the planning report assessed in detail matters relating to open space provision, residential unit sizes and quality objectives, nothing suggests that these matters lead to the attachment of condition 4(a).
- 9.1.2. As condition 4(a) relates solely to height / visual amenities and condition 4(b) relates solely to external finishes these matters can be considered without re-opening the overall merits of the development. I note also the absence of third party comment.
- 9.1.3. I therefore conclude that *de novo* consideration of this case is not warranted.

### 9.2. **Condition 4(a)**

- 9.2.1. Notwithstanding the fact that this site is within an area dominated by two-storey development albeit not within the inner city I agree with the overall thrust of the decision of the planning authority that this is a suitable location for increased height. The height permitted in the decision of the planning authority exceeded the then development plan maximum of 16m for this location and the wording of the planner's report clearly indicated that newly adopted guidance were given due regard. The determination by the planning authority was that six storeys was the appropriate

height. That decision had regard to the Simms flats and the permitted 5 storey development at the former bank.

- 9.2.2. I consider that the Urban Design Statement submitted with the appeal raises a number of significant matters which are critical in the determination of this appeal. In particular the site is at a strategic location in terms of an entry to the city and not in an area of architectural interest. The area has good public transport connections. The site is not within any protected views and is not sensitively located in terms of its position at the crossing of the Tolka. For these reasons I consider that it may be concluded that the criteria for assessment at the scale of the city as set out in the Building Height Guidance are met.
- 9.2.3. When considered at the scale of the neighbourhood / street I consider it relevant to note that the site is centrally positioned in a block with a frontage of 100m, which is likely to be subject to significant development. As the focus of that development will be to the north at Poplar Row there would be less likelihood of significant overshadowing of residential properties. In terms of the building height and the legibility of the urban environment I consider that the development of a significantly larger scale at the North Strand Road end of Poplar Row is appropriate and is in keeping with the District Centre objective and the strategic location. All of these points indicate an opportunity for significantly increased height at this location.
- 9.2.4. Regarding the recent decision of An Bord Pleanála to refuse permission for an increase in height to 8 storeys at the former bank site I consider that nothing in the wording indicates a principled objection to an eight storey residential development at this location.
- 9.2.5. Regarding the planning authority reports and the objection to increased height at the centre of the overall triangular block, I do not consider that this should be sustained as a general principle. Further, in the context of the wording of the recent decision of the Board I do not consider that it can be concluded that the former bank will be redeveloped as a 5 storey building and note that the extant permission pre-dated the Building Height Guidelines.
- 9.2.6. Regarding the detailed design of the proposed development and consideration at the scale of the site / building as described in the Building Height Guidelines, the

relevant issues relate to the potential overshadowing of Poplar Row and the potential impacts on the protected structures.

9.2.7. The matter of overshadowing of the buildings across the street has been addressed and I consider that it is demonstrate that there is no material difference arising from the additional floor subject of the appeal. I disagree with the planning report which states that there is insufficient detail on this matter.

9.2.8. I consider that the following features are relevant in relation to impact on the Simms flats which are a protected structure:

- The raised plinth at ground floor level means that the façade of the proposed building is set back from the public realm.
- The site frontage is partly opposite the flats but is nevertheless quite separate from those blocks.
- The recessed upper floor will not be visible from street level.
- While the design has had regard to the flats in terms of the external finishes it would be of very different design in other respects.

9.2.9. At the time of my site inspection I noted the almost completed 5 storey residential development at a site to the west at Poplar Row, opposite the flats. Based on my inspection and having regard to the application submission and my assessment above, I consider that the following may be concluded in relation to the proposed development incorporating an additional floor at the subject development:

- The proposed development would not detract from the flats. They would retain a strong presence with a horizontal form and a particular character at this location. The subject development is of quite different design idiom. It is a building of its time which in no way mimics the protected structure or diminish its character.
- The street is of sufficient width to ensure that the subject development retains a separate presence in the streetscape and does not detract from the setting of the protected structure.

9.2.10. To conclude I refer to the very significance difference between the proposed and the existing mainly two storey development in the area. Any development of significant

height will be visible in views from North Strand Road from which location the proposal will project above the lower buildings. Having regard to the particular locational and physical character in this area I consider that the proposed additional floor would be acceptable in terms of visual amenity.

### 9.3. **Condition 4(b)**

9.3.1. Condition 4(b) concerns the proportion of render on the northern façade. When the upper floor level is omitted (as it will not be generally visible from street level) the proportion of render to brick would be 50:50. In presenting an architectural justification for the external finishes the applicant references the Simms buildings which are stated to be 70 : 30 render to brick.

9.3.2. I have considered the comments made in the planner's report together with the architect's submission on the specific design detailing and materials. I am satisfied that the high proportion of render would constitute a durable finish having regard to:

- The detailing of the cills and parapet.
- The use of a high quality weatherproof and breathable mineral paint finish.
- The experience of the architect and the projects referenced.

Furthermore I accept the applicant's statements that the high proportion of render will have an aesthetic function, is appropriate in architectural terms and will serve to increase light levels.

## 10.0 **Appropriate assessment**

10.1.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, the likely emissions arising from the proposed development, the availability of public water and sewerage in the area, and distance to the nearest European sites, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 11.0 Recommendation

11.1. I recommend that the Board direct the planning authority to remove condition 4(a) and 4(b) and the reason therefor based on the reasons and considerations below.

## 12.0 Reasons and Considerations

Having regard to the location of the site in an inner suburban area which is proximate to employment zones and to high quality public transportation, to the strategic nature of this location, to the potential for further redevelopment of adjacent sites within the District Centre zone and the separation of the development from Poplar Row Flats and its design detail, it is considered that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would comply with the Urban Development and Building Heights Guidelines and would be in accordance with the proper planning and sustainable development of the area.

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Mairead Kenny  
Senior Planning Inspector

20<sup>th</sup> February 2020