



An
Bord
Pleanála

S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

Inspector's Report ABP-306158-19

Strategic Housing Development

999 no. residential units (579 no. Build to Rent apartments, 420 no. Build to Sell apartments), childcare facility and associated site works.

Location

City Block 9, North Wall Quay, Dublin 1.

Planning Authority

Dublin City Council

Prospective Applicant

Waterside Block 9 Developments Limited.

Date of Consultation Meeting

1. 7th February 2020.
2. 2nd July 2020.

Date of Site Inspection

30th January 2020.

Inspector

Karen Kenny

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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

- 2.1. The site is located at North Wall Quay, Dublin 1. It is a brownfield site with a stated area of c. 1.99 hectares. The site is bound to the south by North Wall Quay (R801) with the River Liffey beyond, to the west by Castleforbes Road (R112), to the north by Mayor Street Upper and to the east by North Wall Avenue.
- 2.2. The site is a brownfield site that was historically linked to port related warehousing uses. Site clearance works were ongoing at time of site inspection. There is construction hoarding around the perimeter of the site and a construction access from Castleforbes Road. Utility buildings along the western boundary to Castleforbes Road are listed on the NIAH.
- 2.3. The site is in the area of the North Lotts and Grand Canal Strategic Development Zone. The area is largely redeveloped and is characterised by modern mixed-use developments with commercial office and residential the predominant uses. The 3 Arena a large entertainment venue is to the east. A number of protected structures in the area have been retained and incorporated into modern redevelopments of the area. The Luas Red Line Docklands Extension runs to the north of the site along Mayor Street with 'The Point' terminus c. 25 metres to the east of the site. The Docklands commuter train station is on Sherriff Street Upper c. 700 metres to the north west of the site. The site is also served by Dublin Bus Services No. 33D, 33X, 41X, 53A, 142 and 151. There is a proposal for a DART underground station at Spencer Dock to the west.

3.0 Proposed Strategic Housing Development

- 3.1.1. The proposed development, as initially submitted, comprised 999 no. apartment units arranged in 3 no. blocks of 14, 41 and 45 no. storeys. The scheme included communal floorspace (8,068 sq.m), a childcare facility (404.sq.m) office floorspace (4,010 sq.m) and basement level car parking and plant areas. The development also included pedestrian connections and public spaces at ground level, pedestrian connections between the blocks at upper levels, communal open spaces at upper levels and a public viewing terrace in Block C, at Level 45. The proposed SHD development is on the eastern and northern sections of the overall site. Documentation on the file states that the applicant intends to lodge a separate application for commercial development on the balance of the lands.
- 3.1.2. An Bord Pleanála determined, following a pre-application consultation meeting dated 7th February 2020, that a second consultation meeting would be necessary for the purpose of forming an opinion under Section 6(7) of the 2016 Act. The notification issued by the Board set out matters to be addressed in the documentation prior to the second consultation meeting.
- 3.1.3. New documentation submitted to An Board Pleanála on 4th June 2020 included amendments to the proposed development. The submitted documentation relates to a development comprising 1008 no. apartment units arranged in 3 no. blocks of 14, 41 and 45 no. storeys on a site of 1.99 ha.

The development is summarised as follows:

- Block A is a 14-storey block comprising 208 no. apartment units (116 no. 1-bed and 92 no. 2-bed), a childcare facility (c. 454 sq.m) and restaurant (250 sq.m).
- Block B is a 41-storey block comprising 421 no. apartments (175 no. 1-bed and 246 no. 2-bed), a foodhall (299 sq.m), café (164 sq.m) and cycle / run café (112 sq.m).
- Block C is a 45-storey block comprising 379 no. apartments (206 1-bed, 170 2-bed and 3 no. 3-bed), social space café (248 sq.m), townhall / café (198 sq.m) restaurant (450 sq.m), public bar / function room (300 sq.m) and office use (c. 2,025 sq.m).

- The scheme includes residential support amenities (c. 3,195 sq.m) including a gym and health centre, concierge, management office, laundry rooms, drying rooms, screen / cinema room, games room and storage rooms.
- The development includes pedestrian connections and public spaces at ground level, communal open spaces at upper levels and a public viewing terrace in Block C, at Level 45.
- The stated GFA for residential floorspace is 129,368 sq.m and the GFA overall is 133,868 sq.m.

3.2. The submitted drawings include 3 no. levels of basement that contain resident amenity areas, cycle parking, car parking and plant areas. A vehicular ramp to the basement is proposed off North Wall Avenue.

3.3. Key Details

Detail	Proposal
No. of Units	1008 no. apartments
Site Area	c. 1.9 ha
Density	530.5 / ha (overall site area)
Building Height	3 no. Blocks of 14, 41 and 45 no. storeys (c. 47m - 167m).
Dual Aspect	41%
Communal Facilities	3,195 sq.m
Other Uses	4,500 sq.m including childcare facility, restaurants, foodhall, café units, office use, public bar / function room.
Car Parking	199 no. spaces
Cycle Parking	1,691 no. spaces

3.4. The breakdown of unit types is as follows:

Unit Type	No.	%
1-Bed	497	49%
2-Bed	508	50%
3-bed	3	1%
Total	999	100

4.0 Planning History

4.1. The PA's submission sets out a list of relevant planning applications in the area. Recent applications that relate directly to the SHD site are detailed below.

ABP-304604-19 - Proposed amendments to North Lotts & Grand Canal Dock Planning Scheme. Undecided.

DSDZ3042/19: Permission granted for amalgamation and amendment to basements permitted under DSDZ3779/17 and DSDZ3780/17.

DSDZ3779/17: Permission granted for 420 no. apartments in 2 no. blocks of 6-11 storeys over basement with a GFA of c. 41,364.4 sq.m (above ground). The development also includes a creche of c. 281.4 sq.m and 4 no. café / restaurant / retail units with a total floor area of 763.5 sq.m.

DSDZ37780/17: Permission granted for the construction of 4 no. commercial office buildings of 6-8 storeys over basement with a GFA of c. 35,883sq.m (above ground).

DSDZ2242/16: Permission granted for demolition of structures on site including the SHD pre-app site.

5.0 National and Local Planning Policy

5.1. National Planning Framework

The recently published National Planning Framework includes a specific Chapter, No. 6, entitled 'People Homes and Communities'. It includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and

cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.2. **Section 28 Ministerial Guidelines**

The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’).
- ‘Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities’ 2018.
- Urban Development and Building Height, Guidelines for Planning Authorities, 2018.
- ‘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’.

5.3. **Local Policy Context**

5.3.1. The Dublin City Development Plan 2016-2022 and the North Lotts and Grand Canal Planning Scheme 2014 (as amended) are the relevant statutory plans for the area.

5.3.2. **Dublin City Development Plan**

The site is subject to zoning objective Z14 - to seek the social, economic and physical development and/or rejuvenation of an area with mixed use of which residential and Z6 would be the predominant uses. The site is also located within an area designated as a Strategic Development and Regeneration Area (SDRA 6 – Spencer Dock, Poolbeg and Grand Canal Dock).

Chapter 4 'Shape and Structure of the City' sets parameters for the creation of sustainable communities in association with the objectives of other chapters. Policies include: SC5 to promote the urban design and architectural principles set out in Chapter 15, and in the Dublin City Public Realm Strategy 2012, in order to achieve a quality, compact, well-connected city; SC7 to protect and enhance important views and view corridors into, out of and within the city, and to protect existing landmarks and their prominence (Fig. 4 details 'Key Views and Prospects'); SC13 to promote sustainable densities (that are appropriate to their context and supported by community infrastructure), particularly in public transport corridors, which will enhance the urban form and spatial structure of the city and having regard to the safeguarding criteria set out in Chapter 16; SC14 to promote a variety of housing and apartment types; and SC16 to recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated SDRA's.

Section 4.5.4: Taller Buildings states the following:

- "Clustering of taller buildings of the type needed to promote significant densities of commercial and residential space are likely to be achieved in a limited number of areas only. Taller buildings (over 50m) are acceptable at locations such as at major public transport hubs, and some SDRAs.....
- The plan states that it is policy to provide for taller buildings in those limited locations identified in the 'Building Height in Dublin Map' in order to promote investment, vitality and identity. 4 locations are identified for high rise buildings of 50m+ including Docklands Cluster (Fig. 39 Chapter 16 refers).
- It is stated that "In all cases, proposals for taller buildings must respect their context and address the assessment criteria set out in the development standards section, to ensure that taller buildings achieve high standards in relation to design, sustainability, amenity, impacts on the receiving environment, and the protection or framing of important views."

The section states that the Irish Aviation Authority must be notified in the cases where a development exceeds 45 m in height.

Chapter 5 'Quality Housing' sets out policies to support sustainable building and design. Policies include: QH6 relating to attractive mixed use neighbourhoods; QH7 relating to sustainable urban densities and high standards of urban design and architecture; QH8 relating to the development of vacant or under-utilised infill sites; QH18 and QH19 relating to the provision of high quality apartments that meet a range of needs.

Chapter 15 relates to Strategic Development and Regeneration Areas. The site is within SDRA 6 Docklands. Section 15.1.1.7 sets out guiding principles for SDRA 6 addressing social & community development; housing; employment; education; social; economic; business; maritime; marketing; environmental; movement / transport; land-use; urban design; flood risk; and implementation.

Chapter 16 sets out 'Development Standards' including standards for Density (16.4), Plot Ratio (16.5), Site Coverage (16.6), Building Height (16.7), Standards of Accommodation (16.10), Car Parking (16.38) and Cycle Parking (16.39).

Section 16.7 addresses Building Height. 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. All proposals for mid-rise and taller buildings must have regard to the assessment criteria for higher buildings are 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.

Section 16.2.2.1 of the plan addresses Large-Scale Development.

5.3.3. North Lotts & Grand Canal Dock SDZ Planning Scheme - 2014

The North Lotts & Grand Canal Dock SDZ Planning Scheme sets out a detailed framework for the development of the SDZ. The scheme provides a development code to guide the nature and extent of development in the scheme area with both fixed and flexible elements.

Chapter 4 sets out the high-level themes, the key structuring principles, and the key building blocks, together with a suite of objectives. Chapter 5 translates these identified themes, principles and objectives into a development code to guide the nature and extent of the proposed development in the SDZ. The scheme calculates, based on the overall framework plan and development code (Fig. 30 & Fig. 33) that c. 1800 residential units and 200,000m² of commercial space can be accommodated on the North Lotts and c. 830 residential units plus 105,000m² commercial floor-space on the southside. The scheme states that the Development Code Map (Fig. 35) provides for a range of typologies which will provide for sustainable residential densities in the range of 100-247 units per hectare (S 5.4.7 refers). The subject site is in the Point Village Hub Area (Fig. 30 refers) and is City Block 9 (Fig. 30A refers). Specific Objectives for City Block 9 are set out in Section 5.5.9 as follows:

1. Use Mix

- Secure 50:50 residential: commercial use mix.
- Ground floor active uses onto Mayor Street and North Wall Quay with a particular emphasis on quality active uses including retail, cultural and amenity uses in the vicinity of the proposed bridge crossing between Castleforbes Road and Sir John Rogerson's Quay.

2. Urban Form/Height

- Building heights to range from 5-storey commercial (6-storey residential) to 8-storey commercial (10-storey residential) to allow for residential amenity and appropriate transition in scale, as well as sufficient enclosure onto main streets, and appropriate scale fronting quays.

3. Public Realm

- New central civic space with SUDS features (See paragraph 4.5.4.3.3)
- New north-south and east-west connections within block.
- New north-south street between City Blocks 9 & 10.
- View lines through City Block to include central civic space.
- To enliven the quays and provide for variety in the streetscape, each urban block within the City Block should contain at least two buildings of different architectural design.
- New streets to be within the range of widths as shown on Fig. 31 and subject to the criteria set out in Section 5.4.3.

4. Infrastructure

- Each site to complete access and attendant public realm prior to occupation.
- Drainage/water infrastructure to be installed with access.
- Foul drainage: Block to drain westwards via new pipelines along proposed road network to 600mm diameter pipeline along Castleforbes Road (this pipeline is at tender stage).
- Surface water drainage: Block to drain westwards to 930x970mm storm-water pipeline via proposed new road.

5.3.4. The Planning Scheme is currently under review (ABP Ref. ABP-304604-19). The review has been undertaken in response to SPPR 3 (b) of the Building Height Guidelines and focuses on the building height parameters contained within the approved scheme. In City Block 9 the proposed amendments would allow for a 22/25 storey residential tower at the SE corner of the block and a local landmark of 12-storeys residential in the NE corner. A decision on the amendments is pending.

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 submissions and the discussions which took place during the tripartite consultation meetings. 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.

The information submitted in December 2019 with the request to enter into consultation included, inter alia, a Completed Application Form, Cover Letter, Statement of Consistency, Material Contravention Statement, Childcare Demand Assessment, Social Infrastructure Audit, Part V Documentation, EIA Scoping Report, OSI Planning Pack, Draft AA Screening Report and NIS, Archaeological Assessment, Daylight, Sunlight and Overshadowing Interim Study, Wind Study, Pedestrian Comfort CFD Analysis, Landscape Proposal, Pre-Application Heritage, Townscape, Landscape and Visual Impact Assessment, Outline Construction Management Plan, Part L Assessment for the Sustainability & Energy Design, Traffic Analysis for Proposed New Development, Lighting Calculation Report, Engineering Services Report, Site Specific Flood Risk Assessment, Traffic Impact Assessment, Pre-Planning Application DMURS Statement of Consistency to ABP, Mobility Management Plan Framework, Confirmation of Capacity by Irish Water, Architectural Design Report, Housing Quality Assessment, Life Cycle Report, Living in Tall Buildings Report, Ronan Group Track Record, Architectural Drawings, Landscape Drawings and Engineering Drawings.

The information submitted in June 2020 in response to the Boards notification in relation to a second meeting included, inter alia, a Cover Letter and Response to 1st Tripartite Meeting; Statement of Consistency (updated); Statement of Compliance with North Lotts and Grand Canal Dock Planning Scheme 2014; Material Contravention Statement (updated); Legal Opinion; Details of Permission Granted under DSDZ3042/19; updated architectural, landscape and engineering drawings; HJL Architects Response to Pre-Application; Housing Quality Assessment (updated); Vision and Place Strategy; Heritage, Townscape, Landscape and Visual Impact

Assessment (updated); Mobility Management Plan (updated); Parking and Access Strategy; Transport Impact Assessment (updated); Landscape Architectural Report; Lighting Calculation Report; Part L (NZEBC) Assessment for Sustainability and Energy Design; Traffic Analysis for Proposed New Development – Residential; and Life Cycle Report (updated). Video presentations from the design team, the prospective applicant, commercial agents and the town planning consultants and an architectural model of the scheme were included with the documents.

6.2. Applicants Statement of Consistency

6.2.1. Statement of Consistency

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. A Statement of Consistency has been submitted, as required and is superseded by the documentation submitted on 4th June 2020. The applicant's case is summarised as follows:

- Consistent with Dublin City Development Plan provisions for consolidation, infill / brownfield development, sustainable densities, urban design and architecture and residential development. The proposed uses are consistent with the Z14 zoning and with the provisions for development in SDRA 6 Docklands (SDZ and Wider Docklands Area). The Docklands is identified as a high-rise area with permissible heights of 50m+.
- Consistent with NPF and RSES. Policy to focus growth into urban areas and into the metropolitan area of Dublin, use infill / brownfield lands and to develop at higher densities. Policy to develop cities at sufficient scale and to prioritise provision of new homes at locations that can support sustainable development.
- Consistent with Urban Development and Building Height Guidelines which actively encourage increased building heights. Request that the proposed

development is assessed on its merits in accordance with national policy.

The statement addresses the criteria for taller buildings in Section 3.2.

- Complies with Sustainable Urban Housing Design Standards for New Apartments. Detail set out in Housing Quality Assessment.
- Consistent with Rebuilding Ireland Action Plan for Housing and Homelessness 2016 – Pillar 3 to build more homes and Pillar 4 to improve the rental sector.
- Consistent with the Sustainable Residential Development in Urban Areas Guidelines, 2009. Meets sustainable development principles and density provisions for city centre sites. Development considered in the context of the 12 criteria in the Urban Design Manual that accompanies the Sustainable Residential Development Guidelines.
- Design takes account of principles of DMURS, 2013.

6.2.2. Response to First Tripartite Meeting and Matters to be Addressed

- Item 1 (a) Compliance with SHD Legislation: Application not dependent on any proposal for which permission has not yet been granted. Permission granted under PA Ref. DSDZ3042/19 for a basement structure that combines basements permitted under two previous permissions (DSDZ3779/19 and DSDZ3780/17).
- Item 1 (b) Compliance with SHD Legislation: The quantum of ‘non-residential’ uses is compliant with the requirements of Section 3 of the 2016 Act.
- Item 2 (a) Rationale for Cluster of Taller Buildings: Refer to Heritage, Townscape, Landscape and Visual Impact Assessment, May 2020; HJL Response to ABP Pre-Application, May 2020; and Vision + Place Strategy, May 2020. Urban design and architecture strategy follow main principles of the Planning Scheme; a desire to create a more exciting scale of development than provided for under the Planning Scheme. Limited visibility from ‘Georgian Dublin’. The scheme will give rise to an addition of quality, public meaning and urban legibility and act as an exemplar for high density city living.

- Item 2 (b) Relationship to Adjacent Developments: Refer to HJL Response to ABP Pre-Application May 2020. The imagery and diagrams demonstrate awareness of neighbouring buildings and streets.
- Item 2 (c) Block Structure: Refer to HJL Response to ABP Pre-Application May 2020; Waterfront South Central Landscape and Architectural Response, May 2020; Heritage, Townscape, Landscape and Visual Impact Assessment, May 2020; Vision + Place Strategy, May 2020 and Landscape Drawings May 2020. Documents illustrate relationship with the surrounding area and provide a comparison with an SDZ compliant scheme. Scale and mass of the buildings have been carefully considered. The vertical and horizontal gardens act as the most prominent visual element of the blocks softening their appearance. The documents provide an overview of key elements of each block and the way in which the detailed design will connect with the human scale and the humanity of the building.

Item 2 (d) Architectural Expression and Detailing: Refer to HJL Response to ABP Pre-Application May 2020; Landscape Architectural Response, May 2020; Heritage, Townscape, Landscape and Visual Impact Assessment, May 2020; Vision + Place Strategy, May 2020; and Landscape Drawings. The placemaking strategy is extensively detailed in the Vision + Place Report by Wordsearch.

- Item 3 Consistency with SDZ Planning Scheme: Refer to Statement of Compliance with the North Lotts and Grand Canal Planning Scheme. The proposed development is broadly compliant with the Planning Scheme as it relates to City Block 9. ABP has jurisdiction to grant permission for an SHD application that materially contravenes the height provisions.
- Item 4 Housing Format: No BTR units, as defined by the Sustainable Urban Housing Design Standards for New Apartments Guidelines, are proposed.
- Item 5 Residential Support Facilities, Services and Amenities: Refer to HJL Response to ABP Pre-Application May 2020; and Vision + Place Strategy May 2020. The scheme provides for 3,195 sq.m of residential amenities and support facilities.

- Item 6 Residential Amenity: Refer to HJL Response to ABP Pre-Application May 2020 which provides an overview of the issues relating to residential amenity. Improvements in respect of aspect. Reasonable levels of daylight and sunlight access for a high-density scheme. Micro-climate and wind impacts can be mitigated.
- Item 7 Open Space: Refer to HJL Response to ABP Pre-Application May 2020; and Landscape Architectural Response, May 2020.
- Item 8 Car Parking: Refer to document Parking & Access Statement, May 2020; Traffic Impact Assessment, May 2020; and Mobility Management Framework, May 2020. A total of 199 no. car parking spaces proposed.

6.2.3. Statement of Compliance with the North Lotts and Grand Canal Dock Planning Scheme 2014

- The site 'City Block 9' is in 'The Point Village Hub' one of 5 no. economic / cultural clusters.
- The proposal is consistent with the vision of the scheme for sustainable inner-city regeneration.
- The proposal accords with high level themes of the scheme in relation to sustainability, economic renewal and employment, quality of living, identity, infrastructure and movement and connectivity.
- The proposed development will contribute to the overall target of 1,800 no. residential units and 4,500 sq.m of commercial floorspace in the North Lotts area.
- The development code in the Planning Scheme is divided into 'fixed' and 'flexible' elements. Parameters relating to quantum of development, mix of uses, public realm, building line and height are fixed. Flexibility with regard to density and plot ratio, design, materials and external finishes.
- There is a requirement for a ratio of 50:50 residential / commercial development in City Block 9. The applicant intends to lodge an application for commercial development on balance of the site.

- Residential building heights within City Block 9 range from 6-10 storeys. The proposed development would contravene this provision. The Material Contravention Statement submitted. Legal opinion from Eamon Galligan SC, addresses the Boards ability to grant permission for a proposal that materially contravenes objectives contained in the Planning Scheme.
- The proposed development addresses requirements of the scheme in relation to public realm, public spaces, SUDS and the street network.
- The applicant proposes to provide a stand-alone Joint City Block Roll Out Agreement for City Block 9.

6.2.4. Material Contravention Statement

- The document addresses a potential material contravention of the Planning Scheme, 2014 in respect of building height.
- In respect of City Block 9 the scheme states that “building heights to range from 5-storey commercial (6-storey residential) to 8-storey commercial (10-storey residential) to allow for residential amenity and appropriate transition in scale, as well as sufficient enclosure onto main streets, and appropriate scale fronting quays.
- The height limitation is not in accordance with policy at national level. The NPF and the Urban Development and Building Height Guidelines provide a justification for the proposed development.
- Case for height based on location, contribution to housing delivery and national policy considerations in relation to higher density and building height.
- The 2014 Planning Scheme is out of date and does not respond to current national policy and international circumstances.
- A precedent is established by a recent decision of the Board in relation to a development that exceeded the height parameters of the planning scheme (ABP Ref. PL29N.305219R / ABP Ref. PL29N.306722).

6.3. Planning Authority Submission

6.3.1. A submission was received by An Bord Pleanála on the 20th January 2020 from Dublin City Council. A submission was received by An Bord Pleanála on 29th June 2020 in response to the new information submitted by the applicant on 4th June 2020.

The 'opinion' of the planning authority dated 20th January 2020 can be summarised as follows:

- Object to the principle of the proposed development on grounds of non-compliance with the SDZ planning scheme and Development Plan objectives.
- Concerns in relation to the indicative masterplan for the development of the block. Would be dominated by residential and jeopardise the effective delivery of 50/50 residential / commercial mix – as required under the North Lotts & Grand Canal Dock SDZ Planning Scheme. It is not clear how the commercial Scenarios detailed in the submission can be progressed.
- The development fails to comply with the height provisions set out in Section 5.5.9 of the SDZ Planning Scheme. The height strategy in the Planning Scheme is undergoing formal review and amendment in response to SPPR3 (B) of the Building Height Guidelines. The proposed building heights in this instance are significantly in excess of the heights set out in the proposed amendment to the Planning Scheme. High Court judgement in case of DCC v Spencer Dock Development Company Limited (JR239/2019) supports the contention that SPPR3 (A) cannot be invoked.
- Concerns in relation to the quality and accuracy of the submitted photomontages – angles, clarity of imagery and lack of visualisations for the immediate context (Mayor Street Upper, North Wall Avenue and Point Square). The submitted photomontages show the proposal having a significant detrimental impact on the setting and character of the River Liffey Conservation Area due to its scale and bulk. There is also potential for significant and detrimental visual impact on a number of important views and vistas within the historic core. It is recommended that there is further assessment of the impact on views from Georgian areas in the south of the city, views from architectural conservation areas such as Mountjoy Square, O'Connell Street, Grafton Street

and more immediate views such as those from Mayor Street Upper, North Wall Avenue and Point Square.

- Concerns in relation to the block layout and narrow and uninviting areas of public realm, fronted by inactive uses. Larger sites should make a positive contribution to placemaking, and tall buildings can provide improved public open space along with active and vibrant ground floor levels.
- The block structure is not in compliance with the scheme as the fixed building lines at North Wall Quay and at the north eastern corner of the block are not adhered to.
- Significant concerns in relation to micro-climate - methodology used in the daylight, sunlight and overshadowing study and results of same. Concerns raised in relation to impact on receiving environment due to potential overshadowing and reduced daylight; on proposed public realm due to overshadowing and wind impacts; quality of daylight to proposed units, potential for wind downdraft and failure to consider cumulative impacts with the future commercial development on the site.
- Need for clarification in relation to BTR units and the management and servicing of same; information on the ancillary residential support facilities, services and amenities; dual aspect ratio and the number of single aspect north-facing units; storage space provision within the scheme; and lift and stair core standards.
- Further clarity needed in relation to access, impact of development of this scale on wider context and on infrastructure; car parking; taking in charge and servicing and operations; bicycle storage.
- Clarity needed in relation to the 'commercial' element of the basement.
- The proposed development is not consistent with the key elements of the development code set out in the SDZ Planning Scheme, including the fixed building lines, location and extent of open space and building height.

The 'opinion' of the planning authority dated 29th June 2020 can be summarised as follows:

- The strategic importance of the North Lotts and Grand Canal Dock area was recognised in 2012 with its designation as an SDZ. The Planning Scheme for

the area was approved in 2014. The scheme was subject to extensive consultation, adopted by DCC and approved by An Bord Pleanála. The scheme has supported a significant quantum of development of substantial scale in the context of city centre regeneration. Block 9 is one of a small number of sites remaining to be redeveloped. Considered that development should be consistent with the approved scheme.

- SEA and AA undertaken in respect of the Planning Scheme ensured full consideration of environmental issues. Concerns that the significant increase in scale and density proposed, fails to acknowledge the environmental assessments that were a fundamental part of the preparation of the Planning Scheme.
- The PA does not concur with the view in the submitted Legal Opinion and does not accept that the Board has the jurisdiction to grant planning permission for a development that materially contravenes the Planning Scheme.
 - Nothing to suggest that NPF intended to override the specific requirements of the planning scheme. The Sustainable Urban Development and Building Height Guidelines, 2018 articulate national policy on height, provide the performance criteria, and give effect to the objectives of the NPF. SPPR 3 (b) of the guidelines means that such planning criteria will not automatically apply to an application within a planning scheme.
 - 2016 Act does not indicate that SHD development would automatically override the limitations in a development plan or planning scheme without reference to Section 37 (2) (b). The PA is of the view that the four criteria for material contravention under Section 37 (2) (b) cannot be satisfied in this instance.
- Rationale for scale and clustering is not been established in respect of subject site. Submission focuses on the suitability of the docklands for tall buildings.
- Planning Scheme review has identified the potential to locate an additional 'district' landmark of area wide significance on a portion of the Block 9. This would not justify the height and scale proposed.

- The proposed development would represent an exponential increase in height, scale and massing, without delivering a proportionate improvement in the provision of open spaces, public realm or attractive frontages and uses.
- Development considered to be dominant and visually incongruous when viewed in the context of North Wall Quay (conservation area) and in the context of surrounding streets to the north, east and west of the site. Concerns remain in relation to accuracy of visualisations.
- The updated ground floor activation strategy is an improvement. Limited new information on the micro-climate of the public realm.
- Concern that the proposed development would provide uninviting areas of public realm (due to micro-climate) and fail to mitigate against the overbearing impacts of high density, high rise development.
- Planning Scheme adopted based on interrelationship between planned quantum of built development and the layout of the public realm, streets and spaces.
- The scheme states that “it is generally accepted that development with a plot ratio exceeding 3:0 must be carefully considered with regard to its impact on an urban structure and amenity”. The proposed density and plot ratio suggest that careful consideration should be given to the subject proposal.
- The proposal is non-compliant with the height parameters of the approved Planning Scheme and of the proposed amended Planning Scheme. DCC undertook a comprehensive review of heights and this resulted in a proposed amendment that has been subject to public consultation. Other provisions in relation to block layout not met, and clarification needed in relation to active frontages, use mix, district heating and city block roll out agreement.
- Clarification needed in relation to breakdown of open space and internal amenities per block and management and operation of the viewing gallery.
- Concerns remain in relation to the number of single-aspect north facing units, daylight / sunlight access to individual units, micro-climate and wind impacts and impact on adjacent developments.

- Clarity needed in relation to the areas included in the open space calculations. In view of the exponential increase in area a comparative improvement in quality is also a reasonable expectation.
- Concerns remain in relation to the impact on the wider context and the demands on infrastructure. The Planning Scheme was modelled in the context of public transport, public realm, road and footpath widths and layouts and pedestrian / cycling demand based on a predicted population, both residential and commercial. Impact of increased footfall and the associated demands on public realm and public transport need to be addressed.
- Welcome a more innovative approach to car parking noting the strategy employed for the Connolly Station redevelopment approved under SHD.
- In conclusion, the PA remain seriously concerned about the principle of a development of this scale at this location. The PA is of the opinion that ABP does not have jurisdiction to grant permission for a development that would materially contravene the DCC Development Plan. The PA is of the opinion that the proposed development does not constitute a reasonable basis for an application.

6.4. Other Submissions

Department of Culture, Heritage and the Gaeltacht – National Monuments Services

The proposed archaeological mitigation detailed in Section 5.2 of the submitted assessment are considered appropriate in the context of the proposed development.

Irish Water

Irish Water confirms that connections to the water and wastewater networks can be facilitated.

6.5. Consultation Meeting

- 6.5.1. A Section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 7th February 2020, commencing at 11.30. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The

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

- In relation to the North Lotts & Grand Canal Dock SDZ Planning Scheme An Bord Pleanála sought further elaboration / discussion / consideration in relation to consistency with objectives of the Planning Scheme including objectives relating to density, building height, block layout, public realm, use mix and active frontages.
- In relation to Compliance with SHD Legislation, An Bord Pleanála sought further elaboration / discussion / consideration of the following:
 - (i) The extent of ‘other uses’ shown on the submitted plans and particulars having regard to the definition of SHD in the Planning and Development (Housing) and Residential Tenancies Act, 2016, in particular section 3(d) (ii) (I) which sets a maximum floorspace of 4,500 square metres for other uses.
 - (ii) The appropriates of separating the residential element of a larger mixed-use scheme form the commercial elements: whether the residential element can be considered as a standalone SHD application; how the proposed development can be assessed in the context of the wider proposals for the site; implications for EIA and cumulative assessment; and the timing and phasing of applications to Dublin City Council and An Bord Pleanála if two separate applications are lodged.
- In relation to Housing Format, An Bord Pleanála sought clarification in relation to the location of Built to Rent and Build to Sell apartments.
- In relation to the urban design strategy for the site, An Bord Pleanála sought further elaboration / discussion / consideration in relation to the urban design and architectural strategy for the site to include the following: density and quantum of development, building height, block structure, scale and mass of individual blocks and the architectural expression and detailing of the blocks at street and upper levels.

- In relation to Visual Impact, An Bord Pleanála sought further elaboration / discussion / consideration in relation to landscape / townscape and visual impacts at citywide and local levels.
- In relation to resident amenities and facilities, An Bord Pleanála sought further elaboration / discussion / consideration in relation to the quantum, function, quality and distribution of communal open space and of resident facilities, services and amenities; and in relation to how the resident facilities, services and amenities would be managed and operated.
- In relation to residential amenity, An Bord Pleanála sought further elaboration / discussion / consideration in relation to the quality of the proposed residential environment, in particular the number of units served off communal corridors, the number of single aspect units and single aspect north facing units, the quality of daylight and sunlight received by the proposed units, the quality of daylight and sunlight received by streets and open spaces, wind impacts on private balconies, streets and public open spaces and the potential for impacts on the amenity of adjacent developments.
- In relation to car parking, An Bord Pleanála sought further elaboration / discussion / consideration in relation to the breakdown and management of car parking.

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 306158' which is on file.

6.5.2. A second Section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 2nd July 2020, commencing at 9.30. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance with other attendees joining the meeting remotely via Microsoft teams. The main topics raised for discussion at the tripartite meeting were based on the matters to be addressed in the consultation documents as set out in the notification to the applicant dated 27th February 2020. 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 No. 2 306158' 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

- 7.1.1. 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 meetings. I have had regard to both national policy, via the s.28 Ministerial Guidelines, and local policy, via the statutory plan for the area.
- 7.1.2. Based on the entirety of the information before me, there remains a question in relation to whether the proposed development comes within the definition of Strategic Housing Development, as set out in Section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Further clarification is needed in relation to the proposed basement structure and associated floorspace and how this will be addressed within the SHD application. The prospective applicant would need to demonstrate at application stage that the development is fully compliant with the provisions of the SHD legislation.
- 7.1.3. Having regard to all of the above, I recommend that further consideration and/or possible amendment of the documents submitted is required at application stage in respect of: compliance with SHD legislation, consistency with local planning policy, development strategy and residential amenity, as sets out in the Recommended Opinion below.
- 7.1.4. 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.

7.1.5. 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

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:

1. Having regard to the provisions of the Planning and Development (Housing) and Residential Tenancies Act 2016, and considering the potential nature and scale of proposed non-residential and ancillary elements of the development, in particular relating to the development at basement level, including the car parking, further consideration and / or justification of the documents as they relate to compliance with the provisions of the 2016 Act should be provided. In particular, further consideration and / or justification should clearly demonstrate that the proposed development is not dependent on or inclusive of future s.34

development proposals and can be assessed and considered at application stage as a standalone application/development.

2. Further consideration and / or justification of the documents as they relate to consistency with the North Lotts and Grand Canal SDZ Planning Scheme to include compliance with fixed parameters in relation to use mix; block layout and building lines, streets, open spaces, active frontages and building height. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan, other than in relation to the zoning of the land, a statement should be included with the application indicating the objective (s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to the criteria in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.

3. Further justification of the documents as they relate to the overall height strategy, including the rationale for providing a cluster of taller buildings of the height proposed on the subject site. The further consideration and / or justification should have regard to, inter alia, the guidance contained in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) and the accompanying Urban Design Manual, the Urban Development and Building Height Guidelines for Planning Authorities (2018); the Dublin City Development Plan 2016-2022 (inc. Section 16.7) and the North Lotts and Grand Canal Dock SDZ Planning Scheme, 2014.

4. Further consideration and / or justification of the documents as they relate to the amenities for future occupants and users of the development and the amenities of occupants of adjacent developments. The further consideration and / or justification should include a detailed assessment of sunlight and daylight access to the proposed apartments and of impacts on existing developments in the vicinity; a detailed assessment of sunlight and daylight

access to streets and public spaces; and a detailed assessment of micro-climate impacts arising from wind.

The further consideration of these issues may require an amendment to the documents and/or design proposals submitted at application stage.

8.1.1. 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. The drawings, images and assessments at application stage shall address the proposed SHD development as a standalone development on the City Block 9 site. An indicative future Scenario used to show potential cumulative impacts arising from development on the balance of the City Block 9 site should be consistent with the parameters of the approved North Lotts and Grand Canal Dock SDZ Planning Scheme.
2. A Report addressing the capacity of the area to accommodate a development of the scale proposed. The assessment should include an audit of physical and social infrastructure in the area and assesses the capacity of the area to accommodate the proposed development.
3. The documentation should include architectural drawings and imagery at a scale that articulates the detail of the scheme including: cross sections through blocks, streets and open spaces; details of finishes, frontages and shopfronts; the treatment of feature elements including reveals, cut outs, undersides, entrances, landscaped areas and pathways; typical design details for base, middle and upper sections of the blocks; and detail of the proposed cladding and green wall systems. The documents should have regard to the requirement to provide high quality and sustainable finishes and address the long-term management and maintenance of the development.
4. A schedule of public and communal open space for the overall development and on a block by block basis.
5. Drawings and cross sections showing the relationship between the proposed development and adjacent developments to the west on Castleforbes Street,

north on Mayor Street Upper and east on North Wall Avenue / Point Square detailing separation distances, height differences and opposing windows, balconies or external amenity spaces.

6. A micro-climate analysis that addresses the impact of wind.
 7. An assessment of potential glint and glare impacts arising from the proposed cladding system.
 9. A detailed Phasing Plan.
 10. Relevant consents to carry out works on lands which are not included within the red-line boundary.
 11. A detailed Quality Audit to include Road Safety Audit, Access Audit, Cycle Audit and Walking Audit.
 12. An updated Car Parking Strategy that addresses matters raised in the submission of the PA dated 29th June 2020 in relation to the car parking strategy.
 13. A site layout plan that distinguishes between the developable area of Block 9 and areas of existing public road and footpaths. Works proposed to the existing public road and footpath should be clearly detailed.
- 10.5 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. Transport Infrastructure Ireland.
 3. Irish Rail.
 4. Commission for Railway Regulation.
 4. Minister for Culture, Heritage and the Gaeltacht (archaeology and architectural heritage and nature conservation).

5. Heritage Council (archaeology and architectural heritage and nature conservation).
6. An Taisce — the National Trust for Ireland.
7. Failte Ireland.
8. An Comhairle Ealaíon.
9. Irish Water.
1. Dublin City Council Childcare Committee.
2. Irish Aviation Authority.

PLEASE NOTE:

- 10.6 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.

Karen Kenny

Senior Planning Inspector

17th July 2019