



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-306203-19

Strategic Housing Development	415 no. Build to Rent apartments with all associated site and development works.
Location	Site formerly known as the IDA Ireland Small Business Centre/Newmarket Industrial Estate bounded by Newmarket, Brabazon Place, St. Luke's Avenue and Newmarket Street, Newmarket, Dublin 8.
Planning Authority	Dublin City Council South
Prospective Applicant	Carrey Issuer DAC.
Date of Consultation Meeting	05 th of February 2020.
Date of Site Inspection	27 th of January 2020.

Inspector

Karen Hamilton

Contents

1.0 Introduction	4
2.0 Site Location and Description.....	4
3.0 Proposed Strategic Housing Development.....	4
4.0 Planning History.....	5
5.0 Relevant Planning Policy.....	6
6.0 Section 247 Consultation(s) with Planning Authority.....	8
7.0 Prospective Applicant’s Case.....	9
8.0 Planning Authority Submission.....	10
9.0 Consultation	12
10.0 The Consultation Meeting.....	12
11.0 Assessment.....	15
12.0 Recommended Opinion.....	16

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 within the Liberties area, Dublin 8, is bound to the north by St Luke's Avenue, east Brabazon Place/Brabazon Row, south Newmarket Square and west Ardee Street. The site currently contains old warehousing buildings which encompass the majority of the site. A Part VIII project for the upgrade of Newmarket square has been agreed by Dublin City Council.

3.0 Proposed Strategic Housing Development

- 3.1. The proposed development would comprise of 415 Build to Rent (BTR) units, 2 no. retail units, 1 no café/restaurant, artist studio and associated works as detailed below.

Table 1: Key Figures

Site Area	0.76ha
No. of units	415
Height	Up to 13 storey
Density	548 units per ha
Car parking	50 spaces in the basement
Cycle Space	589 (1.33 per unit)
Commercial	2 retail units & cafe
Residential Service	782m ²

Residential Amenity	1,314m ²
Communal Open Space	4,704m ²
Private Amenity Space	287m ²

Fig 2: Unit Mix

Unit Type	No. of Units	Percentage
Studio	203	48.9
One bed	139	33.5
Two bed	71	17.1
Three bed	2	2
Total	415	100

Fig 3: Residential Amenity Space (m²)

Lounge Terrace (top of tower)	365
Gym Terrace (central spine)	438
Spa Terrace (St Luke's Ave)	202
Social Terrace (Newmarket Square)	357
Biodiversity Roof Garden	575
Semi-private courtyard	722
Co-working terrace	68
Total	2,724

4.0 Planning History

Reg Ref 4743/19

Permission for a hotel, retail and café (6,448m²) and new street to the south west corner of the site (Site B) currently with Dublin City Council and no decision has been made.

PL29S.300431 (Reg Ref 3323/17)

Permission granted for the demolition of buildings on site & redevelopment for mixed use purposes (including 58 residential units), including 4 blocks (heights along the west part 7 & part 8 storeys) enclosing a central courtyard above lower ground level & basement with 112 car parking spaces & 195 bicycle spaces.

Adjoining site to the west

ABP-305324-19

Permission granted for demolition of warehouse and construction of 368 no. student accommodation bed spaces.

5.0 Relevant Planning Policy

5.1. Section 28 Ministerial Guidelines

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

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated 'Urban Design Manual')
- Design Standards for New Apartments – Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (DMURS)
- Urban Development and Building Heights – Guidelines for Planning Authorities
- Architectural Heritage Guidelines for Planning Authorities, 2004. Development Guidelines for Protected Structures and Areas of Architectural Conservation.

5.2. Dublin City Development Plan 2016-2022

The site is located on lands zoned objective for Z10 is *“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 use in inner city areas”*

- Residential is a permissible uses within the mixed use Z10 zone.

Section 14.8.10 - Inner Suburban and Inner City Sustainable Mixed Use- Zone 10

- Primarily residential, office and retail use.
- The re-development of mono-uses shall not generally be permitted

The southern section of the site is located in the **Newmarket Conservation Area**, therefore the following polices apply.

- **Policy CHC4 & CH5:** Conservation Areas: Development will not harm the features of special interest in the conservation areas or involve harm to loss of traditional fabric.
- **Section 11.1.5.8:** Demolition of Protected Structures and Buildings in Architectural Conservation Areas. The demolition of structures which make a positive contribution to protection structure or conservation area will be restricted. The acceptability of demolition will be considered having regard to the impact on the character of the ACA.
- **Appendix 24:** Protected Structures and Buildings in Conservation Areas.

The site is located in a zone of **archaeological interest Dublin City (DU0180-020)**.

- **Policy CHCO10-** Protect and promote those sites of archaeological interest.

Section 15.1.1.19- The site is located within the **Strategic Development and Regeneration Area (SDRA) 16**, Liberties and Newmarket Square.

- Figure 36- The site is located in Key Development Areas (KDA) C – Newmarket.
- Overall Guiding principles of the LAP include quality of life for the Liberties residents, social and community infrastructure, wide variety of housing choice for families and older, stimulate economy and support the critical mass, promotion of the character, promote the principles of good design etc.

Liberties Local Area Plan

- The site is designated as a Significant Redevelopment Site (G- Chamber Weavers),
- Increased permeability required, new street required with pedestrian priority,

- Mixed use on the site with commercial along the ground floor and facing onto the new pedestrian throughway.

6.0 Section 247 Consultation(s) with Planning Authority

The submission from the PA refers to three Section 247 meetings undertaken on the 24th of July 2019, 24th of September 2019 and 08th of November 2019, records for SHD 0066-19 & SHD 0065-19 accompanied the submission and the issues raised are summarised below:

- The inclusion of the hotel and retail space ensures compliance with the Z10 land use zoning.
- The splitting of the site is not supported and the site should be delivered as one site.
- There are no issues with the use of the site as BTR.
- There are issues with the use of the BTR restricted to 1-3 years rather than long-term.
- The mix of units, although in compliance with the SPPR, is very high on studios.
- There should be more details for the sunlight/daylight analysis.
- The communal open space standards are provided as an afterthought
- The absence of any balconies is not acceptable.
- The additional height will need to be assessed in the context of viewpoints
- The elevation treatment needs considerable work.
- The blank frontage on the new street should be altered.
- The red line needs to include all the applicants proposed development.
- There is restricted mobility along the new public street and there should be active surveillance.
- The dual aspect units with slight projections and north facing aspects are not acceptable.

7.0 Prospective Applicant's Case

7.1. The application was accompanied by the following:

- ABP Application Form,
- Letter of Consent,
- Part V Proposal,
- Schedule of Accommodation,
- Site Location Plan (@ 1:1000),
- Site Layout Plan (@ 1:500),
- Architects Drawings (See Drawing Schedule),
- Landscape Architects,
- Engineering Drawings,
- Planning Statement,
- Statement of Consistency,
- Design Appraisal Document,
- Housing Quality Assessment,
- Landscape Report,
- Landscape Visual Impact Assessment,
- Infrastructure Report (including Irish Water Confirmation),
- Flood Risk Assessment,
- Transportation Statement,
- Daylight/Sunlight Analysis,
- Build to Rent Report ,
- Social Infrastructure Assessment.

7.2. Statement of Consistency

The statement contains an analysis of the site and the wider area, a list of the planning history on the existing and adjacent lands, a background of the proposed development and further details of the proposed scheme as summarised below:

- Compliance with the national guidance for sustainable housing,
- Compliance with SPPR 7 & 8 of the Section 28 guidance,
- In relation to the Dublin City Development Plan, a social audit will be submitted with the application, the impact on the built heritage will be assessed, the plot ratio and site coverage are only indicative, a material contravention statement in regard to the height is submitted and compliance with the remaining standards is submitted.
- In relation to the Newmarket LAP, the proposal complies with the strategic objectives for the site and a material contravention of the height guidance is proposed.

7.3. Statement of Material Contravention

Section 2.3 of the Statement of Consistency provides a reasoning and justification for a material contravention of the CDP and LAP for height as summarised below;

- Liberties LAP height restriction 15m
- Contravention of DCDP Section 16.7 height (24m)
- The proposal has up to 39.1m/ 43.6m.
- SPPR 3 of the *Urban Development and Building Heights Guidelines for Planning Authorities 2018* promotes building height.
- The subject site is best placed to accommodate higher buildings.

8.0 Planning Authority Submission

In compliance with section 6(4)(b) of the 2016 Act 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 23rd of January 2020, and are summarised below:

Design & Layout

- The approach undertaken by the applicant would compromise the delivery of the objectives of the Liberties LAP.
- An application for a hotel is currently with the PA for decision (Reg Ref 4743/19).
- Section 16.7.2 of the City Development Plan limits the height to 24m and a restriction of 15m is set in the Newmarket LAP.
- Permission is granted on the site ABP 300431-17 (Reg Ref 3323/17) for 16m.
- There is no objection to the principle of height or scale of development at this location.
- Clarity in relation to the delivery and maintenance of the proposed public route.
- The design treatment and the location of ancillary residential uses and back of house uses facing onto the street.

Residential Standards

- SPPR 7 and proposed mix is considered permissible.
- The provision and absence of private amenity space is not sufficient in lieu of reduced private amenity standards.

Daylight, Sunlight & Overshadowing Study

- The submitted study indicates the sunlight to the proposed ground level courtyard is lower than recommended levels and compensated by a roof terrace.
- The rooms exceed the BRE Standards.

Communal Amenity/ Roof Gardens

- The quantum is acceptable

Community & Social Infrastructure

- An Audit of the range of supporting infrastructure should be included.

Access & Parking

- Car club and electrical charging points should be included on drawings.
- Allocation of spaces for commercial or residential uses should be identified
- The proposed layby at both St Luke's and Brabazon Place are of concern and have the potential to impact on proposed works in the vicinity.
- Proposal for areas to be taken in charge should be clearly delineated.
- A Mobility Management Plan, Construction Management Plan and Operational Service Management Plan should be submitted.
- The Transport and Traffic Impact Assessment should include the cumulative impact of permitted developments in the vicinity.

9.0 Consultation

9.1. Irish Water has issued a Confirmation of Feasibility (CoF) for 453 residential units. No treatment plant upgrades are required. Upgrades to the water main and foul sewer will have to be carried out although no third party consents are required.

Therefore, based on the CoF, Irish Water confirms that subject to a compliant water and wastewater layout and a valid connection agreement being put in place between Irish Water and the developer, the proposed connections to the Irish Water network can be facilitated.

10.0 The Consultation Meeting

10.1. A Section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 03rd of February 2020, 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.

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

1. Existing proposal for a hotel development (Reg Ref 4743/19).
2. Development Strategy for the site to include inter alia:
 - Quality and design of public/ semi- public open space provision;
 - Public realm, connectivity and permeability through the sites.

➤ External materials.

3. Residential Amenity.
4. Transport and Traffic.
5. Drainage Matters.
6. Any other matters.

10.2. In relation to **the existing proposal for the hotel development (Reg Ref 4743/19)** , An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The status of the existing hotel development within the applicant's control adjoining the site, the timescale for delivery, the procedural issues for lodging two concurrent applications and the provision of the public street from St Luke's to Newmarket Square.

10.3. In relation to the **development strategy** , An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The quantum and difference between public open space and communal open space and compliance with the requirement as set out in Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018).
- The quantum of private open space and storage facilities not in compliance with Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018) in particular compliance with SPPR 8 and any offset proposed as compensatory communal support facilities and amenities for the shortfall.
- The design and treatment of private amenity space, including the absence of privacy screens on the 5th and 6th floors.
- The treatment and quality of communal and public open space provision.
- The design and layout of the new street proposed, the restrictions on mobility between St Luke's Avenue and Newmarket, the provision of "back of house" services along the street and the absence of appropriate surveillance.

- The design and layout of the proposed development and public realm and the promotion of active frontages around the entire vicinity of the site including Newmarket, St Luke's Avenue and Brabazon Lane.
- The proposed palette of external materials for entire building including the frontage along St Luke's, Newmarket and the internal courtyards.
- The use of photomontage drawings and contextual elevations as justification for an increased height at this location.

10.4. In relation to the **Residential Amenity**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The quantum and quality of residential amenity within the overall scheme, including the provision of seating in corridor and/or circulation space, the use of the public café and compliance for any offset for private amenity space and storage in line with SPPR 7 & 8 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018).
- The clear differentiation for service areas allocated for commercial use and those areas for residential, including waste disposal.
- The amount of dual aspect apartments proposed, the quantum of 39% and the design of the projecting windows as a means of compliance with SPPR 4 with particular reference to those north facing apartments.
- The amount of sunlight and daylight for the existing and proposed residential units and communal open space and compliance with the BRE guidelines.

10.5. In relation to the **Transport and Traffic** , An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The number of access points for services, support for fire tender access and the location for proposed deliveries around the site, in particular along Brabazon Place/Brabazon Row and the integration of appropriate public realm around the site.
- The inclusion of car club and electric charging spaces within the basement areas.

10.6. In relation to the **Drainage Matters** , An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- Issues raised by the Planning Authority in relation to the basement drainage proposals.

10.7. In relation to the **Any Other Matters** , An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- Assessment of the impact on potential archaeology, having regard to the location of the site within a zone of archaeological interest Dublin City (DU0180-020).
- Assessment of the impact on built heritage, having regard to the Newmarket Conservation Area along the south of the site.

11.0 Assessment

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

I have examined all of the information and submissions before me including the documentation submitted by prospective applicants, the submissions of the planning authority and the discussions which took place at the tripartite meeting. I have had regard to both national policy, via the section 28 Ministerial Guidelines and local policy via the statutory plans for the area.

Conclusion

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.

12.0 Recommended Opinion

The Board 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.**

Residential Amenity

1. Further consideration and/or justification of documents as they relate to the compliance with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018) and the provision of appropriate residential amenity, having regard to, but not limited to the following;

- SPPR 4 and the provision of dual aspect units within the scheme,
- SPPR 7 & 8 and the submission of a schedule of accommodation which details the shortfall in private amenity and storage facilities proposed and those compensatory residential support facilities and amenity areas.

Pursuant to article 285(5)(b)(i) and (ii) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that the **following specific information** should be submitted with any application for permission:

1. A detailed phasing plan for the proposed development taking into consideration the remaining site, within the applicant ownership to the south

west of the site, and the delivery of the new public street in the centre of the site.

2. Additional CGIs/visualisations/3D modelling and cross section drawings showing the proposed treatment of the new public street through the site and the proposed development relative to existing and proposed developments in the vicinity, including justification for an increase height at this location relative to the surrounding area.
3. Relevant consents to carry out works on lands both within the red line and others which are not included within the red-line boundary.
4. A site specific Management Plan which includes details on management of all communal areas and the public plaza.
5. Details of all materials proposed for buildings, open spaces, paved areas, boundary and landscaped areas and a building life cycle report in accordance with section 6.3 of the Sustainable Urban Housing: Design Standards for New Apartments (2018).
6. Submission of an Archaeological Impact Assessment and Conservation Impact Assessment, having regard to the location of the site within a zoned of archeologically interest and the Newmarket conservation area.
7. The submission of Operational Service Management Plan, Mobility Management Plan and Construction Management Plan.
8. The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 should be submitted as a standalone document.

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. Transport Infrastructure Ireland.
2. Irish Water.

3. Commission for Energy Regulation.
4. Minister for Culture, Heritage and the Gaeltacht (archaeology & conservation)
5. An Taisce- The National Trust for Ireland.
6. The Heritage Council.

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.

Karen Hamilton
Planning Inspector

17th of February 2020