



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-306945-20

Strategic Housing Development	363 no bedrooms within a “Shared Accommodation” development all supporting facilities and associated site and development works.
Location	Mary’s Lane and Halston Street, Dublin 7
Planning Authority	Dublin City Council
Prospective Applicant	Fruit market Partnership.
Date of Consultation Meeting	29 th of May 2020
Date of Site Inspection	30 th of April 2020

Inspector

Karen Hamilton

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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 to the north of the Fruit Market, Dublin 7. The application site comprises of 4 no. sites which are currently standalone sites and comprise of retail warehousing associated with the fruit market.
- 2.2. The first site which comprises the proposed Block A is bounded by Mary's Lane to the south and Halston Street to the west. A primary school and associated buildings are located on the opposite site of Halston St, facing onto the west of this site. The second and third sites include the proposed Block B & C and are accessed from Little Green Street (No 2 & 4/5). The sites of Block A, B & C connect together at the rear of these sites.
- 2.3. The fourth site is located to the north, facing onto Halston Street and bounding Cuckoo Lane to the South. This site faces west onto St. Michan's Park and includes 16/17 Halston Street (17 Halston Street is a Protected Structure (RPS No. 3506)).

3.0 Proposed Strategic Housing Development

- 3.1. The proposed development would comprise of 363 no. bedroom units for shared accommodation development in 4 no. blocks A-D as summarised below.

Block A

Location	6-8 Marys Lane (Marys Lane south/ Halston Lane west)
Units	186 no bedrooms (127 single & 59 double)
Clusters	40 clusters units
Bicycle	186 spaces
Height	9-14 storey
Retail/ commercial	(450m ² / 363m ²)
Amenity / Open space Areas	233m ² 12 th floor 185m ² 13 th floor 74m ²

Block B

Location	2 Little Green Street (to the east)
Units	35 no bedrooms (14 single & 21 double)
Clusters	7 no cluster units
Bicycle	35 spaces
Height	9 storeys
Rooftop garden	127m ²
Retail/commercial	ground floor 76m ²

Block C

Location	4/5 Little Green Street (east)
Units	42 no bedrooms (28 single & 7 double)
Clusters	7 no. clusters
Bicycle	39 spaces
Height	8 storey
Roof top garden	140m ²
Retail/commercial	Ground floor 105m ²

Block D (above and beside a protected structure)

Location	16/17 Halston Street
Units	100 bedrooms (65 single & 35 double)
Clusters	18 clusters
Bicycle	100 spaces
Height	7-8 storeys
Open space	Ground floor 419m ²

Unit Mix

Unit Type	No. of Units	Percentage
One bed	234	66
Two bed	122	34
Total	356	100

4.0 Planning History

ABP 300987-18 (Reg Ref 3629/17)

Development currently under construction for a 343 no bedroom aparthotel, 3-7 storeys in height with 9 car parking spaces. Entrance into the basement via a ramped entrance of Little Green Street at the north of the development.

Reg Ref 2370/19

Permission granted for a 7 no storey hotel with 195 no bedrooms and an eight storey penthouse suite. Relocation of existing granite door on Little Britain Street (NIAH). ABP 305328-19 appeal was withdrawn.

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 Z5, City Centre Mixed Use Zoning, is *'To consolidate and facilitate the development of the central area, and to identify, reinforce and strengthen and protect its civic design character and dignity'*

- Residential is a permissible uses within the mixed use Z5 zone.
- A general mix of uses is desirable with retail the dominant use on the ground floor.
- **Chap 16-** Plot ratio- 2.5-3.0 & Site coverage 90%
- **Section 16.2.2.2** – “infill development”- Should ensure the development respects the prevailing height and streetscape. Points of interest and materials can help make a positive contribution to the area.
- **Section 16.7.2-** Building heights- 24m (residential) for buildings in the Inner City.

Conservation Area & Protected Structure

The site inclusion of Block D is a protected structure RPS Ref. 3506 17 Halston Street/Cuckoo Lane (stone archway surround and entrance door in in single-storey commercial structure) and the site is located south of a protected structure RPS Ref:

3505 12-13 Halston Street, Dublin 7 St. Michan's Church and presbytery & RPS Ref: 5069 Mary's Lane, therefore the following policies apply.

- **Policy CHC2:** To ensure that the special interest of protected structures is protected.
- **Policy CHC4-** Protect the special interest of the conservation areas and contribute to the character of the area.
- **Appendix 24:** Protected Structures and Buildings in Conservation Areas.

6.0 Section 247 Consultation(s) with Planning Authority

The submission from the applicant refers to 2 no. S 247 meetings on the 16th of October 2019 and 20th of January 2020 and the issues raised by Dublin City Council are summarised below:

- Shared Accommodation is a separate category than Build To Rent.
- Details of a recognised operator/ management company.
- 13 storeys is too high. Additional photomontages/ visual assessment should be submitted. 10/14 required justification.
- A comprehensive daylight/ shadow analysis is required.
- Concern in relation to the works to the basement and the impact on the archaeology, in particular Block D.
- Discrepancy over submitted plans, some bedrooms had no windows.
- The scheme should integrate a 2m wide footpath.
- Site Specific Flood Risk Assessment was required.
- DCC was not of the opinion that 4 blocks could be included within the red line although the applicant contacted ABP who confirmed that it could.
- Breakdown of occupancy would be recommended.
- Block D is inappropriate at the location adjoining the church tower
- View along the river are important.

- Impact of shadow on Georges Hill accommodation important even if it is only temporary accommodation (comparison between 5 & 10 floors should be submitted to see if there was any comparison).

7.0 **Prospective Applicant's Case**

7.1. The application was accompanied by the following:

- Planning Report and Statement of Consistency
- Minutes of s.247 meetings
- Shared Accommodation Report
- Management Operation Plan
- Height Justification Report
- Architectural Drawings
- Architectural Design Statement
- Floorspace Schedule
- Engineering Drawings
- Drainage Summary Report
- Basement Impact Assessment
- Construction Management Plan
- Demolition Management Plan
- Irish Water Pre-Connection Enquiry
- Residential Travel Plan/Mobility Management Plan
- Transport Design and Management Strategy
- DMURS statement
- Fire and Access Design
- Archaeology Impact Assessment
- Conservation Architecture Report

- Appropriate Assessment Screening
- Environmental Impact Assessment Screening

7.2. Statement of Consistency

The statement contains an analysis of the site and the wider area. Reference is provided to national, regional and local targets for growth.

Shared accommodation standards listed in SPPR 7 & SPPR 8 in the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments 2018 have been complied with.

7.3. Statement of Material Contravention

A Height Justification Report has been submitted having regard to Section 16.7 of the development plan and the building cap of 24m at this location.

The justification refers to the Urban Development and Building Heights- Guidelines for Planning Authorities, SPPR 1 & SPPR 2 for the assessment of building heights on a site specific basis. Permissions for other high buildings either built or permitted have been highlighted in the report.

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 the 23rd of April 2020, via email.

Planning Assessment

- The obligation to confirm compliance with Sections 5.18 and 5.19 of the **apartment guidance** is an obligation of the proposer and should provide satisfactory evidence to ensure same.
- The **plot ratio** is high and raises concern in relation to overdevelopment on the site.

- In relation to **building heights** the assessment criteria of the national guidance is applicable and it is noted the development plan pre-dates this guidance.
- The applicant has submitted information relating to the compliance with criteria in the Building Height Guidelines. Notwithstanding this case, there are concerns in relation to the design and how this will integrate when viewed from the adjoining streetscape.
- There is no requirements for a landmark building at **Block A** or particular justification at this location.
- There is a lack of **connectivity** between Blocks A, B & C.
- The height and scale of development at **Block D** is overdevelopment (cross reference to Conservation officers report) and does not take into consideration the character or setting of the area.
- The **daylight and sunlight assessment**.
 - Concerns raised in relation to the impact on Georges Hill apartments in particular those orientated towards Cuckoo Lane. The argument that these are temporary accommodation is not accepted.
 - The Sunlight and Daylight analysis should provide an analysis of the worst case scenario i.e. BRE analysis and orientation of units (e.g. north).
 - The amenity area of the adjoining school would be further impacted by the proposed development.
 - The impact on the sunlight and daylight of St Michan's park will be affected.
- There is limited information available in the Architectural Design Statement in relation to the **public realm** including landscaping materials. Paving patterns, kerbs etc.
- The Draft Public Realm Master plan for the City Markets Area has minimum footpath widths (2m).

- Distances from adjacent buildings should be indicated.
- The design and setting of Block A (setback from Marys Lane and Halston St) and the open space at the front will not provide any good public realm.
- **Passive surveillance** at the ground floor of Block A, B & C is of concern.
- The design of Block A ground floor is not in line with the Shopfront Design Guidelines. The ground floor along Halston Street will be poor.
- Details in relation to the pedestrian laneway along the side of Block A should be should be detailed, passive surveillance is required.
- Details of the percentage of public open space should be included.
- It is unclear how many of the units proposed are north facing.
- There are concerns that the **larger single units** will be used for double.
- Clarity should be provided on the usability/ quality of **kitchen spaces**.
- **Discrepancies between** the drawings and accommodation schedule. The laundry room and locker storage could not be located.
- The wind **microclimate study** should confirm if the development would provide high quality outdoor spaces and indicate land scape and mitigation measures.
- There is concern in relation to the **sharing of services** and if Block B has to walk to Block A to uses services etc.
- A recognised **operator** who could inform, design and manage the scheme would be preferable.
- Details on the operation of Roost (the café on the ground floor of Block A) would be useful.

Conservation

- A full history of the heritage in the vicinity is provided and the policies of the development plan relating to conservation are highlighted.
- An extract of the Dublin City Markets Area Draft Framework Plan 2006 provides illustrations of the area adjoining the Fruit Market.

- The Architectural Design Statement does not provide any context for assessment of the proposal.
- The circulation space and access is confusing and the facades do not contribute to the animation of the streetscape.
- The fire safety and one-way concept can be daunting for residents.
- It is difficult to ascertain the attractiveness of the external courtyards.
- Clarification in relation to the junctions between existing and proposed buildings (particularly protected structures).
- The scale and massing studies submitted, indicate how the proposal will overwhelm the receiving environment.
- Block D is excessive in scale and mass on the impact of the setting of St Michan's Church and on the residential amenity of the occupants on the opposite side of Cuckoo Lane.
- The previous proposal, two storey above existing, at Block D, is more acceptable
- The proposed transition zone between the top of the parapet and pediment on No 17 Halston Street.
- The current changing skyline is not justification for an of increase height at this location and should consider redesigning to consider the historic grain of the city.

Transport Assessment

- There are concerns in relation to the safe pedestrian and cycling accessibility, having regard to heavy on-street activity and poor pedestrian infrastructure.
- No provision of a set back of the building line is provided to address previous issues during preplanning and an **audit of the wide area is requested**.
- 3 loading bays area identified and no information relating to deliveries, collections etc. is included.
- An Operational Service Management Plan should accompany any application.

- There are concerns in relation to the demolition and heavy construction traffic in the area. Traffic management measures should mitigation against any heavy use on the streets.
- A Traffic Impact Assessment should accompany any SHD application.
- There are multiple doors opening onto the public footpaths, these should be removed and redesigned as inward only. Internal floor levels should match external floor levels.
- Bicycle parking for residents and visitors should accord with the development plan standards.
- Cycle parking to Block B should be reviewed and designed to ensure fully accessible.
- Substation vehicle access and car parking requirements for same should be clarified.

Drainage

- The proposal shall integrate a stage 2 approach to the SuDS at a minimum.
- Comprehensive SuDS layout shall be integrated and incorporated into the landscaping.
- A Site Specific Flood Risk Assessment (SSFRA) shall be developed further to address flood risks to basement from construction phase, emergency procedures and evacuation plans, confirmation there is no increased risk of flooding to any other development.

Archaeology

- The proposal should respect the historic scale and grain and should be a high quality design.
- There is evidence that there are archaeological remains on the site, recording and preservation of any archaeology is required.

Housing

- Part V is not applicable on Shared Living Accommodation Units.

9.0 Consultation

9.1. Irish Water has issued a confirmation of feasibility for 97 residential units (262 bed spaces) and confirms the increase in bed spaces is feasible and requires that any additional increase in bed spaces is reassessed to determine the feasibility of the proposal.

- In respect of water the existing network is feasible without upgrade with the water connection facilitated through a 160mm pipe on Anne Street North.
- In respect of the waste water the received sewer is combined and the development must incorporate SuDS and attenuation to reduce surface water into the received combined sewer as per details agreed with DCC Drainage Division.

10.0 The Consultation Meeting

10.1. A Section 5 Consultation meeting took place at the offices of An Bord Pleanála at 9.30 am on the 29th of May 2020, via Microsoft Teams. 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. Conservation Impact Assessment
2. Compliance with the Apartment Guidelines
3. Height Strategy
4. Development Strategy for the site to include inter alia:
 - Quality and design of open space provision;
 - Public realm, connectivity and permeability through the sites.
 - External materials and design rationale.
5. Residential Amenity.
6. Drainage & Flooding.
7. Traffic & Transport

8. Any other matters.

10.2. In relation to **Conservation Impact Assessment**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- Justification of the impact of the scale and design of the proposed development having regard to the location of the site within a historic area of the city and the information contained in the Architectural Heritage Impact Statement, the Design Rationale and other accompanying documentation such as the visual impact assessment and building height justification.
- The overall design of Block D, the impact on those protected structures on the site including No 16 and No 17 Halston Street, St Michan's Church adjoining the site to the north and the conservation area which also integrates St Michan's Public Park.
- The amount of fabric proposed to be demolished at No. 16 & No. 17 Halston Street, the design of the proposed Block D having regard to the interface between the proposed development and the original protected structure fabric to be retained.

10.3. In relation to compliance with the **Apartment Guidelines** , 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 residential support services and amenities proposed across the four Blocks A- D, and any requirement to ensure compliance for an offset for storage and amenity space in line with SPPR 9 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities.
- The proposed operator for the scheme and/or previous experience of the applicant with other shared accommodation schemes and reference to other similar types of accommodation development, including, inter alia and evidence based requirement for shared accommodation having regard to the guidelines.

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

- The use of photomontage drawings and contextual elevations as justification for an increased height and massing of the Blocks from all approaches around the site having regard to other higher buildings granted permission in the vicinity of the site.
- Justification for an increased height at this location for the proposed developments, in particular Block A, having regard to the building height guidance criteria in section 3.2 of the Building Heights Guidelines with specific reference to the scale of the street and site.

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

Open Space

- Quantitative and qualitative analysis of the functionality and usability of the open space provision between Blocks A- D of enhanced and the integration of sunlight and daylight analysis and the demonstration of the enhanced overall standard of amenity provided necessary to comply with SPPR 9 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities.

Public Realm

- The ground floor treatment of Blocks A, B & C and the interaction with the adjoining public streets, in particular the overhang proposed around the corner of Block A, the treatment along Mary's Lane and Halston Street and the inclusion of uses along the ground floor to encourage pedestrian flow and the elevation design of the facades.
- The proposed use along the ground floor units of all the blocks and the necessity to encourage active use to encourage the flow of pedestrians around the sites.

External Materials

- The palette of external materials proposed, the design rationale provided including the transitional nature of brick on Block A and the range and mix of materials.
- The range and mix of materials proposed for Block D having regard to the location beside St Michan's Church and within a conservation area.

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

- Daylight & sunlight analysis assessment of both the communal areas, the bedrooms of the shared accommodation, the proposed open space and the impact on the amenity of those residents in the adjoining residential schemes.
- The breakdown of the residential communal services and amenity spaces within each of the Blocks, the benefits of consolidating a greater amount residential facilities within Block A and general compliance with SPPR 9 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities.

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

- The Irish Water submission and notification of a further increase in bed space numbers which would require the proposal to be reassessed.
- The PA requirement for the integration of SuDS into the design of the proposed development.
- The requirement for a Site Specific Flood Risk Assessment to address the impact of the basement construction, dewatering of the site and the potential to impact on the adjoining areas and the Bardogue River.

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

- The requirement for the submission of a Traffic Impact Assessment having regard to default position relating to the absence of car parking and the

appropriate requirement to assess the impact of construction traffic on the Fruit Market Area.

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

- The potential impacts of the proposal on any Archaeology on the site and the requirements for pre testing investigations before the submission of any application.

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.**

Architectural Heritage Impact Assessment

1. Further consideration and/or justification of the documents as they relate to the impact of the proposed development on the character and setting of the features of conservation interest in the vicinity including the protected structures on the site and St Michan's Church which adjoins the site to the north. The documentation should demonstrate that the design, scale and massing of the proposed development would not have an adverse impact on the architectural heritage of the area. In particular the documentation should fully address the requirements of the criteria as set out in Section 6.4.15 and Appendix B of the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and those relevant policies and objectives for the site relating to the built heritage in the development plan.

Height and Design

2. Further consideration and/or justification of the documents as they relate to the scale, form, visual impact, and materials of the proposed buildings, relating specifically to the justification for the height and design of the 4 no. buildings in particular the 14 storeys proposed for Block A. The further consideration/ justification should address the proposed design and massing, inter alia the visual impact of Block A on the existing receiving environment around the Fruit Market area and the area of conservation interest to the north of the site. The further consideration of these issues may require an amendment of the documents and/or design proposal submitted.

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. An updated sunlight and daylight analysis to include an assessment of the available sunlight and daylight to the communal areas, bedrooms and open spaces with reference to the BRE Guidance on the subject site, as well as the impact of the proposed development on the adjoining sites.
2. A quantitative and qualitative assessment which provides a breakdown of the number of proposed bed spaces and the details for the provision of residential support facilities and amenity areas used to offset the standards and/or compensatory measures proposed within each of the Blocks A-D. The submitted information should demonstrate compliance of those details with the various requirements of the 2018 Guidelines on Design Standards for New Apartments including its specific planning policy requirements, in particular SPPR 9.
3. A Construction Environmental Management Plan (CEMP) that addresses, inter alia, the impact of the basement construction on the Bradogue River including any dewatering proposed during construction and the impact of the construction traffic on the Fruit Market Area.
4. Detailed consideration of Dublin City Council proposals for upgrade of public realm for the Fruit Market Area and integration of these requirements into any proposed development.
5. Detailed landscape plan including the provision of any residential amenity facilities within the open space areas and SuDS proposals in relation to roof gardens.
6. A specific impact assessment of the micro-climatic effects such as down-draft which shall include measures to avoid/ mitigate such micro-climatic effects.
7. An Operational Service Management Plan.

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. Minister for Culture, Heritage and the Gaeltacht
2. The Heritage Council,
3. An Taisce-the National Trust for Ireland,
4. An Comhairle Ealaíon,
5. Fáilte Ireland
6. Irish Water

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
Senior Planning Inspector

17th of June 2020