



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-308984-20

Strategic Housing Development	227 no. Build to Rent apartments and associated site works.
Location	Nos. 31-34 Abbey Street Upper, 42-51 Great Strand Street and bounded by Byrnes Lane, Dublin 1.
Planning Authority	Dublin City Council North
Prospective Applicant	Balark Trading GP Limited
Date of Consultation Meeting	08 th of April 2021
Date of Site Inspection	31 st of March 2021
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 (0.35ha) is located in Dublin City Centre (D1) and extends through from 31-34 Abbey Street Upper and 42-51 Great Strand Street. The site has been excavated and is currently undeveloped. Recent planning permissions on the site include a hotel up to 10 storeys in height.
- 2.2. The site is adjacent, west, of Chapter House Building, a 6 storey office building with retail on the ground floor along Abbey Street. To the east, along Abbey Street, there is a three-storey derelict building. The site has c. 27m frontage along Abbey Street.
- 2.3. The frontage along the south of the site, onto Great Strand Street, is much larger (c.70m) than Abbey Street. A Dublin Bike Station is located on the public footpath along the front of the site. A public lane from the west, Byrnes Lane, radiates up to and connects with the site.

3.0 Proposed Strategic Housing Development

- 3.1. The strategic housing development will comprise of
 - Construction of 227 no. Build to Rent units within two blocks (A & B) where Block A is located along Abbey Street and Block B along Great Strand Street.
 - The buildings extend in height to 12 storeys over basement with ancillary residential areas at basement and throughout.
 - 2 no retail units.

- Vehicular access will be from Great Strand Street for service vehicles.
- Surface water runoff will be collected in an attenuation tank and discharged to the River Liffey.
- Foul will be pumped to a new foul manhole and discharged to the existing combined sewer south of the site on Great Strand Street and treated at Ringsend WWTP.

3.2. Development Parameters

Site size	0.35ha
Total units	227 no. units (12,834m ²)
Density	648ha
Retail Area	1,709m ²
Dual Aspect	37%
Public Open Space	350m ²
Communal Amenity Space	Roof Garden Communal Amenity Space- 849m ² Courtyard Communal Amenity Space- 750m ² Tenant Amenity Space- 608m ²
Bicycle Spaces	330 (45 for visitors)
Height	12 storeys (c.40m)

3.3. Housing Mix

Units	Number	Percentage
Studio Units	17	7%
One bedroom	152	67%
Two bedroom	58	26%

4.0 Planning History

ABP 305280-19 (Reg Ref 3232/19)

Permission granted to amend the development permitted under Dublin City Council Reg. Ref. 3172/18 for a hotel. The proposed development provides for the construction of 2 no. additional floors to the permitted hotel building fronting Abbey Street Upper (resulting in an 11 no. storey building) and extension of the 7th and 8th floor level to the north resulting in an additional 64 no. bedrooms and an overall hotel comprising 303 no. bedrooms and revisions to the facade of the hotel onto Abbey Street Upper. The proposed development also provides for the construction of 1 no. additional floor to the permitted aparthotel building fronting Great Strand Street (resulting in a 10 no. storey building) and extension of the 7th and 8th floors to the east resulting in an additional 21 no. bedrooms and an overall aparthotel comprising 277 no. bedrooms..

Reg Ref 3093/19

Permission granted to amend part of the development permitted under Reg. Ref. 3172/18, to provide for an increase in the permitted basement area of c.129m² providing for additional hotel storage space, resulting in a revised basement area of c. 1,718m².

Reg Ref 2997/19

Permission granted for to amend part of the hotel development permitted under Reg. Ref. 3172/18; development replaces the permitted stairwell providing access to Byrne's Lane (from basement to eighth floor level) to now provide for an increase of c. 15.5m² to the basement storage space and an increase of c. 16.5m² to the ground floor retail unit to provide a service access/escape and the provision of eight additional hotel bedrooms (one per floor from first to eighth floor level (resulting in an increase in the number of permitted hotel bedrooms from 239 to 247; development also provides for associated revisions to the facade fronting Byrne's Lane to accommodate the hotel bedrooms and for revisions to the facade of the hotel fronting onto Abbey Street Upper

Relevant history on adjoining sites

ABP 305853 (Reg Ref 3804/19)

36-36 Abbey Street Upper and Abbey Cottages.

Permission granted for Demolition of the 3 storey commercial unit, modifications to a previously permitted development (DCC Reg. Ref. 2971/17/ABP Ref. PL29N.249037, DCC Reg. Ref. 2954/18). The proposed development will result in the increase of the total number of rooms from 127 rooms to 151 rooms. The building will be an 11 storey over 2 basement levels.

Reg Reg 2479/20

Jervis Shopping centre on the opposite side of Abbey Street.

Permission granted for the following (a) the addition of 24 build to rent residential units located at car park level 3 to car park level 4 level on the Jervis Street and Abbey Street Upper frontages of the building. The two floors of this element will have a floor area of 2390m² and will have 20 no. one bed units and 4 no. two bed units. These units will be accessed from entrances on Jervis Street and Abbey Street Upper. There will also be additional amenity open spaces provided at car park level 1A, 2A & 3A adjacent to the protected structures at Upper Abbey Street to serve these units.

(b) it is proposed to demolish retail floor area, storage and car parking area totalling 4355m². facing Mary Street at first floor level, first floor upper, car park level 1, car park levels 2/2A; 3/3A; 4/4A and mansard surrounds facing Mary Street, Jervis Street and Abbey Street Upper. In replacement, it is proposed to construct a 6 storey building of 8,208 m² behind the Mary Street frontage, from first floor upper level to car park level 5 for use as a co-living development with 127 units.

(c) it is also proposed to construct 3 floors above the roof car park level 5A level for office use at Jervis Shopping Centre, bounded by Mary Street, Jervis Street and Abbey Street Upper, Dublin 1.

5.0 Relevant Planning Policy

5.1. Section 28 Guidelines

- 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
- Design Manual for Urban Roads and Streets (DMURS)
- Urban Development and Building Heights – Guidelines for Planning Authorities

5.2. Dublin City Development Plan 2016-2022

Land use Zoning

The subject site is zoned as Z5 where it is an objective, *“To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity”*

Chapter 2- Vision

- active promotion of the inner city as an attractive place for urban living, working and visiting;
- the delivery of housing regeneration projects,
- the emergence of spatial clusters of economic specialisms,
- public realm improvements and the strengthening of the retail core,
- all supported by multiple levels of public transport accessibility in the city centre.

Plot Ratio/ Site Coverage for Z5 land use

- Plot Ratio - 2.5-3.9
- Site Coverage - 90%

Section 16.2.2.2- Infill development should respect the site and enhance the surroundings

Lands to the south of great Strand Street are located within a Conservation Area and include a row of protected structures facing onto the Quays, therefore the following polices apply:

- CHC1- Preservation of the built heritage of the city.
- CHC4- Protection of special interest and character of Conservation Areas.

Section 16.7.2- Building Heights and Areas for Low-Rise, Mid-Rise and Taller Development

6.0 Section 247 Consultation(s) with Planning Authority

6.1. The PA submission includes a record for one S.247 meeting on the 21st of October 2020. The issues raised are summarised below:

- There are serious concerns in relation to the height of the proposal and the impact on the streetscape.
- A full visual impact assessment is required and there is concern about the views from South Quays and Ha'penny Bridge.
- Concern that there is only residential amenities located in the basement, the quality of spaces and the available light etc.
- Concern in relation to the orientation of the northern apartments.
- Defensible space required between the apartments and the communal courtyard.
- Full shadow analysis and daylight/sunlight analysis required for the adjoining site and propsoed units.
- Details in relation to the public plaza.
- Concern over the design of the screens on the balconies.
- Pedestrian link to the site to be given further consideration.

7.0 Prospective Applicant's Case

7.1. Statement of Consistency

The Statement of Consistency summarises how the proposed development is broadly consistent with National, Regional and Local Policy and relevant Section 28 Guidelines.

7.2. Statement of Material Contravention

The applicant considers the proposed development is a material contravention of the development plan with regard the height of the development at 40m as summarised below:

Height

- In relation to the height, the proposed development is a material contravention of Section 16.7.2 as building heights exceed the maximum of 24 metres. Generally, the building will be c. 40m in height.
- A material contravention is justified with reference to planning precedence in the vicinity of the site and SPPR3 of the Urban Development and Building Heights: Guidelines for Planning Authorities.
- The documentation is justified having regard to the Landscape Design and Townscape and Visual Impact Assessment.

Planning precedence for taller building in the vicinity.

- Reg Ref 2479/20- Jervis Shopping Centre (mixed use) 12 storeys c.44m (DCC grant and on appeal to ABP).
- ABP 305853-19 (Reg Ref 3804/19)- 35-36 Abbey Street immediately to the east, 11 storeys, c. 31m, Tourism hotel (DCC refusal and ABP grant on appeal).
- ABP 305280-19 (Reg Ref 3232/19) Subject site, Hotel/ Retail, 11 storeys, c. 34m (DCC refusal and ABP grant on appeal).

8.0 Planning Authority Submission

8.1. 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 the S.247 meeting, the planning authority opinion, along with interdepartmental reports and the relevant planning applications in the area. These were received by An Bord Pleanála on the 01st of February 2021.

The issues raised are summarised below:

8.2. Planning Assessment

Height

- There are concerns in relation to the increase in height, scale and massing and the visual impact of the proposal in the context of the existing streetscape at Abbey Street Upper, Great Strand Street and also when viewed from the southern side of the Liffey Quays and the Ha'penny Bridge.
- Photomontages illustrate the significant impact in scale and height beyond that of Chapter House.
- Views 7 & 9 illustrate the impact from the north quays.
- From a conservation perspective there is concern in relation to the impact on the quays when viewed from the southern riverbank and the Ha'penny Bridge and Liffey Quays.
- There are concerns of the impact of the height on the surrounding area would fail to successfully integrate into the street scape and could therefore not meet the design tests in the Urban Development and Building Guidelines for Planning Authorities 2018.

Design & Layout

- There are concerns in relation to the quality of the public plaza and access to daylight and sunlight
- There is a requirement for public realm improvements along Byrnes Lane.
- There is a pedestrian route along the southeast of the site which could provide access to the Abbey Street cottages.

- There is concern the proposal could cause overshadowing of the Great Strand Street and Abbey Street Upper.
- The separation distances are not provided on the drawings and are required.

Apartment Standards

- The proposal complies with SPPR 8 with regard to mix of units.
- The size of the apartments is substantially in compliance with the apartment instead standards.
- The dual aspect of 37% is acceptable.
- There are serious concerns in relation to the residential amenity of 43 no. north facing apartments, 10 of these only have a minimum floor space.

Open Space

- There is some discrepancy in the information provided as the floor plans do not indicate private open space for at the rear of Block A at 02nd and 03rd floors although the Housing Quality Assessment includes private open space for these units.
- Clarification on the number of units with no winter garden/balcony.
- There are serious concerns with the projecting in the town centre location which will not provide privacy.
- It would appear that there is an excess of 296m² of communal open space although without the number of units with no private amenity this compensatory relevance cannot be quantified.
- Details on the daylight/sunlight of the communal open space areas is required.
- The public open space (ground floor plaza) complies with the 10% requirement although the height of the buildings around will have a negative impact.

Sunlight and Shadow Study

- The sunlight study indicates 79% of apartments can meet the BS standards although 21% cannot. The situation improves from the ground floor up.

- There is no assessment of floors 7-11.
- The details of all the apartments is required to assess the impact on the residential amenity of the occupants.
- Section 2 of the sunlight and daylight analysis lacks detail, does not clarify the BRE standards for half of the amenity space and instead states that the combined amenity space will achieve 65% of the sunlight availability.
- The report does not address the impact of the proposed development on the surrounding streets and sites in terms of overshadowing and daylight/sunlight.
- The impact of overshadowing is of relevance along Great Strand Street.

Communal Facilities

- It is stated there is 2.77m² of residential amenities per unit (628m²) where 339m² is provided in the basement.
- There is a lack of detail of the quantum and level of residential amenity provided and compliance with SPPR7.

Childcare Demand Audit.

- The proposal has 58 no 2-bedroom units which would qualify for the provision of childcare facility.
- The childcare audit highlights 24 childcare facilities within a 1km radius with an estimated 267 vacant childcare spaces.

8.3. Transport

- The justification for zero car parking is noted and accepted.
- The design standards for apartments required 1 cycle space per bedroom and 1 visitor space.
- The applicant shall indicate how the cycle facilities can be expanded if necessary and shall provide a breakdown of the management for the spaces.
- It is unclear what servicing works are proposed to facilitate servicing of the development. A service management plan should be submitted.

- Scaled drawings of Great Strand Street are required to ascertain the width of the existing footpath as this appears reduced.
- The existing Dublin bikes along Great Strand Street require reconfiguration and works need to be confirmed.
- The materials proposed for those areas to be taken in charge should be agreed with the council.

8.4. Parks & Landscaping

- The landscape report should include a list and quantum of private, communal and public open space.
- Full details of green roofs, children's play space, active play area etc should be detailed.
- The vertical greening of the adjoining building beside the public plaza should be clarified and owner's consent.
- DDC public Arts Office should be contacted for a possible mural etc at this location.

8.5. Biodiversity

- The architectural and landscape planting should be revised to enhance biodiversity, offer scope for pollinators, nesting birds and bats as part of the built fabric.
- Given the proximity to the River Liffey it is assumed there is no bat activity.

8.6. Archaeology

- The excavation on the site is noted.
- The excavation uncovered a section of medieval precinct wall of St Mary's Abbey and a condition was applied.
- The Board should be respectful of this issue in their decision.

9.0 Irish Water (IW)

9.1. IW have issued the applicant a Confirmation of Feasibility for 227 no Built To Rent apartments subject to the following:

In respect of **Wastewater**:

- Surface water from the development must be discharged to a separate storm network.
- Where a Section 16 Trade Licence is required it is the responsibility of the applicant to obtain.

In respect to **Water**:

- New 200 mm main to be laid to connect the development to the existing 250mm HDPE main in Abbey Street Upper. A Bulk meter to be installed on this connection main and linked up to telemetry online system.

10.0 The Consultation Meeting

10.1. A section 5 Consultation meeting took place via Microsoft Teams on the 08th of April 2021 with representatives of the prospective applicant, the Planning Authority and An Bord Pleanála 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 based on the Agenda that issued in advance and contained the following issues:

- Height Strategy,
- Impact on Residential Amenity, *inter alia*, sunlight/daylight, communal facilities
- Development Strategy, *inter alia*, layout, balconies,
- Park and Landscaping,
- Transportation Matters,
- Any Other Business.

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

- The justification for taller buildings at this location having regard, *inter alia*, permissions granted in the vicinity, the impact on the views from the Quays and the potential for overshadowing on the surrounding area.
- The need to co-ordinate and integrate all the relevant documentation ensuring compliance with those requirements of Section 3.2 of the Urban Development and Building Heights and the justification for taller buildings.

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

- The level of sunlight/daylight into the proposed units, the number of north facing single aspect units and the standards having regard to the BRE Guidance and any other associated guidance.
- The unit mix proposed, the demand for smaller units and the need to integrate larger units.
- The location and type of communal amenities and services proposed in the basement and adjacent to the public plaza.

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

- The absence of private amenity space for some of the apartment units, the residential amenity proposed and the inclusion of any compensatory residential amenities and services as required by SPPR 7& 8 of the Design Standards for New Apartments.
- The design and layout of the building having regard to the use of external balconies versus winter gardens and the impact on the levels of available sunlight/daylight into the apartments.
- The design and layout of the communal open space, the availability of sunlight/daylight to these spaces and the range of play spaces and recreational areas proposed.
- The separation distances between proposed apartments and the need to reduce any potential for overlooking.

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

- The design of the public plaza and the potential for connection into Byrnes Lane and through to the Millennium Walkway.
- The treatment of the public plaza adjacent the adjoining property, the greening of the blank wall and the potential to be taken in charge by the Local Authority.

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

- The level of cycle parking provided and the design, layout and access to the cycle storage areas.
- The design of the public realm adjoining the site having regard, *inter alia*, the treatment of the public space to the north to accommodate the movement of the public around the LUAS stop and the need to alter the location of the Dublin Bike stand along Great Strand Street.
- The potential for additional connectivity into the laneway adjoining Abbey Street Cottages, the location of the proposed vehicular access from the Great Strand Street and the location of the ESB sub station which prevents any through movement between the sites.

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

- The flood risk assessment submitted, and the design features integrated into the scheme to prevent any negative impact.

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: **constitutes 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 **would constitute a reasonable basis for an application** for strategic housing development to An Bord Pleanála.

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 arising from this notification:

1. Notwithstanding that the proposal constitutes a reasonable basis for an application the prospective applicant is advised to address the following in the documents submitted:
 - a) Provide further justification in relation to the layout of the apartment units, having regard, *inter alia*, any proposed north facing single units and the overall level of sunlight/daylight into the apartments with reference to the BRE Guidance.
2. A Housing Quality Assessment which provides the details regarding the proposed apartments set out in the schedule of accommodation, as well as the calculations and tables required to demonstrate the compliance of those details with the various requirements of the 2020 Guidelines on Design Standards for New Apartments including its specific planning policy requirements (SPPR 7 & SPPR 8). The report shall detail the use of the residential support facilities and amenity areas used to offset the standards and/or compensatory measures proposed within the proposal, *inter alia*, the absence of private open space.
3. Drawings that details dual aspect ratios should be clearly laid out and be accompanied by a detailed design rationale report.
4. A report that specifically addresses the urban design rationale including the proposed materials and finishes of the frontages and public realm along the site at Abbey Street and Great Strand Street and from the proposed public plaza through to Byrnes Lane. Regard should be had to the requirement to provide high quality design and sustainable finishes and include details which seek to create a distinctive character for the overall development. The documents should also have regard to the need to enhance the streetscape and enhance the footpath in the general area.
5. A landscaping plan of the proposed communal and public open space should:
 - clearly delineating communal and public areas,
 - include designated play facilities for a range of age groups,
 - detail the boundary treatment adjoining any open space,

- include details for the design and management of the green wall adjoining the public plaza,
 - include a Specific Management Plan for all communal areas and the public plaza,
 - include proposals to enhance the biodiversity on the site, including, *inter alia*, opportunities for the site to be used by pollinators, birds and bats.
6. A site layout plan clearly indicating what areas are to be taken in charge by the Local Authority.
 7. A Social and Community Audit.
 8. A Service Management Plan detailing the servicing proposals for both the retail and residential proposals.
 9. A Mobility Management Plan Strategy/ Residential Travel Plan detailing the management regime for the bicycle spaces. This plan should include a justification for any reduction in bicycle spaces.
 10. Updated plans and particulars for the scale, number and type of bicycle parking proposed as per Recommendation No. 2 of the Transport Planning Division Report.

Pursuant to article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is informed that the following authorities should be notified in the event of the making of an application arising from this notification in accordance with section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016:

1. Irish Water
2. Minister for Housing, Local Government & Heritage (built heritage),
3. Heritage Council,
4. An Taisce
5. Transport Infrastructure Ireland
6. National Transport Authority

7. Transdev Ireland- LUAS Operator
8. Commission for Railway Regulation
9. Dublin City Childcare Committee

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

16th of April 2021