



An  
Bord  
Pleanála

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

### **Inspector's Report on Recommended Opinion ABP-309630-21**

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<b>Strategic Housing Development</b>	Demolition of existing buildings on site, construction of 120 no. Build to Rent apartments and associated site works.
<b>Location</b>	43-50 Dolphin's Barn Street, Dublin 8.
<b>Planning Authority</b>	Dublin City Council South
<b>Prospective Applicant</b>	Majick Hour Limited.
<b>Date of Consultation Meeting</b>	10 <sup>th</sup> of May 2021
<b>Date of Site Inspection</b>	20 <sup>th</sup> of April 2021
<b>Inspector</b>	Karen Hamilton

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## 1.0 Introduction

- 1.1. 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 subject site is located along the western side of Dolphin's Barn Street, Dublin 8. The entrance to the Coombe Hospital is located on the opposite side of Dolphin's Barn Street. Most of the site includes an old vacant single storey factory, located to the rear of the row of two storey commercial/ residential properties facing onto Dolphin's Barn Street.
- 2.2. The site bounds a row of two storey terrace dwellings along the north, Emerald Square and west, Reuben Street. There is also a row of terraced dwellings to the south of the site, which front onto Dolphin's Barn Street. Earls Court apartment complex is further south and consists of an 8-12 storey building.

## 3.0 Proposed Strategic Housing Development

- 3.1. The proposed development would comprise of:
- Demolition of existing structures on the site,
  - Construction of part four, part nine storey building for 2 no commercial units and 120 no. BTR apartments and associated works.

### 3.2. Development Parameters

Site size	0.33ha
Total units	120 no. units

Density	363 units per ha
Commercial Area	346 m <sup>2</sup> 2 no (shop/office/medical/gym/ restaurant/café)
Dual Aspect	40%
Public Open Space	None
Communal Amenity Space	Ground floor- 472m <sup>2</sup> First Floor open space- 384m <sup>2</sup> Roof Garden- 107m <sup>2</sup> Rood Garden Deck- 257m <sup>2</sup> Total- 1,220m <sup>2</sup>
Car parking	28 no spaces 18 shared, 9 car club & 1 no commercial
Bicycle Spaces	215 no spaces
Height	Up to 9 storeys (28.2m)

### 3.3. Housing Mix

Units	Number	Percentage
Studio Units	12	14%
One bedroom	72	60%
Two bedrooms	31	26%

## 4.0 Planning History

### **ABP 302149-18 (Reg Ref 3853/17)**

Permission granted for the demolition of former factory building & construction of a part 4 to part 7 storey residential / retail building, stepping down to 3 storeys to the

rear, over basement & ground floor retail & car park with 1 no. retail unit at ground floor & 70 no. apartments from first to sixth floor level. Balconies are provided for the residential apartments on the eastern, western, southern and northern elevations. Provision of 67 no. car parking spaces at basement level & 18 no. car parking spaces with bike store.

## 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

The site is zoned Z4 (District Centre), where it is an objective, *"To provide for and improve mixed-services facilities"*

The site is located within the **SDRA 16** Liberties and Newmarket Square

#### Building Height

- Section 16.7.2 – Heights of buildings up to 24m on Inner City Sites

### 5.3. The Liberties LAP, 2009 (extended to 2020).

Create a good sense of enclosure along the length of the street corridor.

- Provide active frontages along key walking routes and towards key local public spaces.
- The public realm should be designed to encourage walking and cycling, providing shared surfaces and easy street crossings.

- Improve permeability by delivering links from Cork Street to other areas, enhancing connectivity within the wider emerging street network in the Liberties.
- Create intervals of green space and enhanced public realm along the street including street tree planting.
- Ensure that all new developments along the Cork Street / Coombe Corridor are of an appropriate building height up to a maximum of 6-8 storeys, subject to sensitivity to local context, appropriate transition in scale and the protection of established residential amenity and the quality of open spaces.

#### Public realm strategy Cork Street corridor

- Enhance pedestrian realm and provide easy crossing points at key junctions of the emerging route network.
- Provide speed tables at crossing points (Speed tables to match paving height and material).
- Mitigate traffic impact by introducing central reserve. Plant semi-mature trees along its lengths where possible.
- Provide soft landscaping along the pavement edges and where possible plant trees.
- Highlight important gateways into the liberties at the junctions using lighting, paving patterns/materials, street furniture and lighting.
- Widen pavement where possible and provide stone paved sidewalks throughout.

## 6.0 Section 247 Consultation(s) with Planning Authority

6.1. The PA submission includes a record for one S.247 meeting on the 01<sup>st</sup> of October 2020. The issues raised are summarised below:

- The proposal relates to 138 no units.

- The proposal is not compliant with the land use zone as it does not demonstrate the uses are viable and more active, non-residential is required for the street.
- The 33% is very low for dual aspect and the number of north-facing units are not acceptable.
- The number of studio units and the quality of the communal space is not acceptable.
- The permitted scheme already has a significant height, having regard to Reuben Street and Emerald Square and the proposal is visually obtrusive.
- The proposal needs to demonstrate compliance with height guidelines, impact on sunlight/daylight, surrounding area.
- The proposed access, amount of parking, bicycle provision and bin storage require clarification.

## **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 c. 28.3m as summarised below:

- Section 16.7.2 of the CDP restricts height for residential development over 24m.
- The Urban Development and Building Height Guidelines 2018 include specific planning policy requirements supporting heights. This guidance precedes takes precedence over any conflicting, policies and objectives of the development plan.

## 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 06<sup>th</sup> of April 2021.

The issues raised are summarised below:

## 8.2. Planning Assessment

### Proposed uses

- The proposal includes a reduction in commercial space relative to the existing use and the extant permission (ABP 302149-18, Reg Ref 3853/17).
- The Z4 (District Centre) zoning requires that new uses enhance the vitality and viability during the day and night.
- There is not sufficient justification on the reduction of commercial use on the site.

### Plot ratio, Site Coverage and Density

- The site is suitable for higher density having regard to the brownfield characteristics, the location of the site and the efficient use of lands as promoted in the national guidance.
- The plot ratio to Z4 lands is to be 1.0-3.0, the proposed scheme is 3.21 and is above the guidance. A higher plot ratio may be acceptable subject to a high-quality scheme.

### Layout.

- The overall layout is like the previously approved scheme.
- There are some concerns by the transport in relation to the access.
- The street frontage could be more active with more commercial / retail frontage.



### Height and visual impact

- At 28.2m the height of the building would exceed the restrictions in Section 16.7 of the development plan at 24m.
- The height and massing adjacent to the two storey dwellings to the south has increased in comparison with the extant scheme and is considered overbearing.
- The treatment along the south results in a blank flank wall in a prominent location within the streetscape (View 1).
- In relation to the Dolphin's Barn Street streetscape, the building appears bulky and overly complex due to the number of setbacks and horizontal emphasis on level 7 & 8.
- The massing to the rear at 8 storeys plus roof terrace (1.8m screening) is also considered excessively bulky.
- The massing to the rear should be reduced in line with the extant permission.
- The proposed materiality is acceptable although further articulation on the facades would add interest.
- A clear rationale for the height has not been demonstrated. This considerable bulk and mass should be addressed in any rationale for height.
- A full Landscape and Visual Impact Assessment, directly relating to verified views, should be submitted as part of any future application and should include consideration of views from a wider perspective as well as closer to the south on Dolphins Barn Street.
- A Wind Microclimate Assessment should be submitted. This should address pedestrian comfort.
- The Parks Department require 70% coverage for green roofs.
- The location of the plant etc should be included.

### Housing Quality.

- It is considered that the proposal complies with the guidelines as required.

- The provision of defensible space to the ground floor windows to habitable rooms should be included for privacy and the communal open space area recalculated.
- It is considered the quantum of residential amenity space is sufficient although the podium space would have limited sunlight should privacy strips be included.
- The results of the BRE standards are noted. The applicant should confirm the communal amenity space would pass the standards.
- The public open space has not been included and should permission be granted a contribution in lieu will be required.

#### Impact on Residential Amenities

- The proposed scheme is taller and closer to some existing properties and the applicant should provide elevations and sections to show the relationship.
- There is new overlooking from balconies and windows facing west towards the rear of Reuben Street.
- The applicant should be requested to provide that an acceptable level of privacy is maintained for the existing occupiers.
- A Daylight study has been submitted and not all neighbouring sites have been assessed. Major and moderate adverse impacts on adjoining dwellings in terms of VSC are identified. The VSC results indicate a greater impact than the extant scheme.
- Any assessment should include a diagram showing the impact of the extant scheme on the neighbouring amenity schemes.
- The applicant should confirm that all neighbouring gardens have been tested.
- The applicant should revise the scheme to remove the increased impacts on the VSC to neighbouring properties bounding the scheme over and above that extant scheme.

#### Community Facilities and Social Infrastructure.

- A community facilities and Social Infrastructure audit is required.

### 8.3. Interdepartmental Reports

Transport Planning: There are concerns in relation to the proposed access as summarised below;

- The proximity of the entrance to the signalised junction raises concerns for traffic safety in relation to the sightline and pedestrian movement.
- Pedestrian priority will be required along the footpath.
- The works required to facilitate the left turn exit raises safety concerns as the yellow box would be unlikely to be appropriate and there would be pedestrian conflict.
- The service strategy for the proposed development should be facilitated in the site rather than impacting on Dolphin's Barn Street pedestrian and cycle paths.
- A revised Mobility Management Plan should include a proactive plan for meeting mobility standards of the future occupants and promote car share spaces.
- The short-term cycle parking provision is considered low, spaces should be accessible and long-term parking should be separate from commercial.
- There are concerns over the low level of car parking, the Residential Travel Plan includes modal split targets which exceed the proposed car parking spaces and therefore more parking spaces should be provided with the commercial spaces reallocated to residential.

Drainage Division- No objection subject to the following:

- Incorporate NWRMs in the management of surface water with a minimum requirement of a 2-stage approach before discharge to the attenuation tank.
- Incorporate SuDS.
- Drainage construction standards in accordance with the Greater Dublin Regional Code of Practice.
- Clarify details of investigations to confirm the proposed surface water connection can be constructed.

Air Quality Monitoring and Noise Control Unit- No objection subject to the following:

- Compliance with Dublin City Council Construction and Demolition Good Practice Guide.

Housing & Community Services: No objection subject to compliance with Part V.

Parks, Biodiversity & Landscape Services: No objection subject to the following:

- No public open space has been included and a contribution in lieu will be required.
- A breakdown of the private, communal and public open space zones should be included.
- The existing public street trees should be retained and protected.
- A green roof plan should be included as part of the landscape strategy and should contain at least 70% flat and gently sloped roofs.
- Vertical greening of blank facade is recommended.
- The sunlight/shadow assessment should include an assessment of all open space areas, and the 01<sup>st</sup> floor podium level.

Waste Regulations: No objection subject to compliance with a number of waste management issues.

## 9.0 Irish Water (IW)

9.1. IW have issued the applicant a Confirmation of Feasibility for 120 no Built To Rent apartments subject to the following:

In respect of **Wastewater**:

- The development has to incorporate Sustainable Drainage Systems/ Attenuation in the management of storm water and to reduce surface water inflow into the receiving combined sewer.
- Full details of these have to be agreed with LA Drainage Division.

## 10.0 The Consultation Meeting

10.1. A section 5 Consultation meeting took place via Microsoft Teams on the 10<sup>th</sup> of May 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.

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

- Z4 zoning and uses proposed,
- Development Strategy, *inter alia*, scale, bulk and mass
- Impact on adjoining Residential Amenity, *inter alia*, daylight/ sunlight, overbearing
- Transport Issues
- Any Other Business

10.3. In relation to the **Z4 zoning and proposed uses**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The objectives for the Z4, District Centre zoning, the inclusion of commercial/ retail within any proposed development and need to support the vitality and viability of the area.
- The reduction in the quantum of commercial/ retail space relative to the permitted development ABP 302149-18 (Reg Ref 3853/17).
- The rationale for the quantum of commercial/ retail uses included in the proposed development.

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

- The proposed amendments to the scheme in comparison to the permitted development ABP 302149-18 (Reg Ref 3853/17).
- The increase in scale, bulk and mass to the rear of the site adjoining residential properties.

- The justification and rationale for the proposed architectural style having regard to the previously permitted design.
- The need for a material contravention and the justification for increase heights having regard to the criteria in Section 3.2 of the Urban Development and Building Height Guidelines 2018.
- The need for the co-ordination of visuals and plans and particulars to adequately represent the visual impact of the proposal.

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

- The increased scale, bulk and mass towards the boundaries adjoining the existing properties around the site.
- The rationale for the amendments to the previous permitted development ABP 302149-18 (Reg Ref 3853/17).
- The impact on sunlight/daylight, reference to the BRE standards and the different impacts relative to the permitted development ABP 302149-18 (Reg Ref 3853/17).

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

- The location of the proposed entrance adjacent to existing traffic lights which service the Coombe Hospital, the volume of traffic into the site and
- The design of the traffic upgrade works along Dolphin's Barn Street.
- The requirement for pedestrian priority access along the front of the site

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

- The requirement for a micro-climate assessment, the impact on pedestrian comfort along the front of the site and Cork Street and the use of mitigation measures to reduce any impact.
- The absence of any public open space and the requirement for a contribution in lieu.

## 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

- 12.1. 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.
- 12.2. 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 the documents as they relate to design and layout and how it relates to the potential impact on any residential amenity. Further justification of documentation should include the submission of additional CGIs illustrating the overall scale and mass and the potential impact on those existing properties in relation to Reuben Avenue and Emerald Square. The justification of the documents may require the submission of amended drawings to ensure there is no potential to negatively impact on the residential amenity of the occupants to the neighbouring dwellings by way of overbearing and overshadowing.

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. The proposed development shall be accompanied by a detailed report providing a justification and rationale for the commercial/retail use proposed on the site, having regard to, *inter alia*, the Z4, District Centre Zoning, the need to provide a mix of uses on the site and the impact on the vitality and viability of the surrounding area. The report shall address the provision of services in the vicinity and the impact of the proposed development on the surrounding area.
2. A Wind micro-climate study, including analysis of impact on pedestrian comfort in the vicinity of the site.
3. A report that specifically addresses the urban design rationale including the proposed materials and finishes of the frontages along Dolphin's Barn Street. Particular 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 long-term management and maintenance of the proposed development



4. A Community and Social Infrastructure Audit.
5. An Operational Waste Management Plan and report detailing compliance with Dublin City Council Construction and Demolition Good Practice Guide.
6. An Updated Sunlight/Daylight/Overshadowing analysis showing an acceptable level of residential amenity for future occupiers and existing residents, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties. This report should address the full extent of requirements of BRE209/BS2011, as applicable.
7. A Response to issues raised in Appendix B of Planning Authority Report, received 06<sup>th</sup> of April 2021, which includes the internal reports of the Transportation Planning Division relating to the location and design of the vehicular access along Dolphin's Barn Street, upgrade works required along the public road and justification for car parking ratio proposed.
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, unless it is proposed to submit an EIAR at application stage.
9. An Appropriate Assessment screening report and/or Natura Impact Statement.

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. Transport Infrastructure Ireland
3. National Transport Authority
4. 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.

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Karen Hamilton  
Senior Planning Inspector

12<sup>th</sup> of May 2021