



An  
Bord  
Pleanála

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

**Inspector's Report on  
Recommended Opinion  
ABP-310653-21**

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**Strategic Housing Development**

Demolition of all existing structures on site and construction of 183 no. Build to Rent apartments and associated site works.

**Location**

No. 148 Richmond Road, Fairview,  
Dublin 3

**Planning Authority**

Dublin City Council

**Prospective Applicant**

Birkey Limited

**Date of Consultation Meeting**

15/09/2021

**Date of Site Inspection**

27/08/2021

**Inspector**

Conor McGrath

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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

This irregularly shaped site comprises 0.59 ha and is located on the southern side of Richmond Road, approximately c. 540m from the junction with Drumcondra Road Lower to the west and c. 570m from the junction with the Ballybough Road / Fairview Strand. The Tolka River runs along the southern / southwestern boundary of the site and the riverbank comprises mature vegetation and trees. The site is currently occupied by a 3-storey plus attic, red brick residential property, containing 4 no. dwelling units with frontage to Richmond Road. To the rear is a commercial complex containing a number of warehouse buildings and external storage. There is also a telecoms mast on the southwestern boundary.

The site has limited frontage to Richmond Road on its northwestern side. It is bounded by Leydon's Wholesalers & Distributor Site to the northeast, which comprises industrial / warehouse structures and open yard, and by Deakin Court a 4-storey apartment development, to the north-west. Development to the southeast of the site within former industrial buildings, The Distillery, comprises commercial / office and residential accommodation in a number of 4/5-storey buildings, including protected structures.

### 3.0 Proposed Strategic Housing Development

- 3.1. The proposed development principally comprises the demolition of all existing structures on the subject site (2,345 sq m) and the construction of a six to ten-storey over basement development containing 1 no. café unit/residential amenity space (137 sq m) at ground floor level and 183 no. Build-to-Rent apartments. The development also provides internal communal amenity / support facilities (474 sq m). A total of 73 No. car parking spaces are proposed, with 72 no. located at basement level and 1 no. accessible space located at surface level. 368 No. bicycle parking spaces are provided at ground level.
- 3.2. An 8 metre setback is provided along the boundary to the Tolka River to allow for a riparian buffer and a walking/cycle route along the river. The telecoms structure will be relocated to roof level (c. 1.8m above parapet level).
- 3.3. Key development parameters include:

Site Area		<b>0.59 Ha (5,901 sq m)</b>	
Gross Floor Area (Above Ground)		16,225 sq m	
Proposed Basement Area		2,801 sq m	
Dwelling units		183 no. 104 x 1-bed (57%) & 79 x 2-bed (43%).	
Density		310 / ha	
Plot Ratio	2.75	Site Coverage	30.2%
Dual Aspect Units		92 No. units (50%)*	
Building heights		6 (21.5m) – 10-storeys (35m)	
Public Open Space		1,000 sq m (17%) river park	
External Communal Amenity Space		2,881 sq m (48.8%) Incl 209-sq.m. of roof terrace	
Internal Communal Amenity Space		474 sq m / 2.59-sq.m. / unit (meeting room, workspaces, lounge, gym)	

Café	137-sq.m.	
Parking	73 No. car spaces	368 No. bicycle spaces

#### 4.0 Relevant Planning History

PA ref. 0312/98: Permission granted for new site access, demolition of houses no's. 146 and 148, construction of 2 new houses and replacement of existing builders providers warehouse with new building.

PA ref. 1859/99 ABP ref. PL20N.118004: Permission granted for 4 No. warehouse units on the site.

PA ref. 3390/00: Permission granted for revisions to 2 no. previously approved houses.

PA ref. 0946/02: Permission refused for change of use of Unit 2 from warehouse to retail warehouse.

PA ref. 3591/10: Permission granted for a 20-metre monopole with associated equipment and fencing as part of a 3G broadband network, previously granted under planning reference 1800/04.

PA ref. 2213/16: Permission granted to retain existing 20 metre monopole (granted permission under 3591/10) carrying antennas and associated development.

#### Adjoining lands:

PA ref. 2945/15: Permission granted to NABCO for the adjacent Deakins Court apartment development to the northwest, consisting of 39 No. apartments and 2 No. commercial units over basement car parking, new hard and soft landscaping to the front (Richmond Road) and rear (River Tolka).

Lands at The Distillery, to the southeast of the site along Richmond Road have been subject to a number of applications for redevelopment, which included a 7-storey block immediately adjacent to the subject site under DCC reg. ref. 5224/05, which was not constructed.

ABP Ref. ABP-310860-21 This comprises a current SHD application on lands at Holy Cross College, Clonliffe Road, and Drumcondra Road Lower to the west of the

subject site. The proposed development comprises the construction of 1,614 no. Build to Rent apartments, and associated site works in a series of new and retained buildings. The 12 no. new residential buildings range in height from 2 storeys to 18 storeys. A decision on this application is due on 4/11/2021.

## 5.0 **Section 247 Consultation(s) with Planning Authority**

Documentation refers to a S.247 consultation meeting with the planning authority on 14<sup>th</sup> April 2021. Key items discussed included:

- Principle of development.
- Height, density and context. Requirement of a wind comfort assessment.
- Landscape design and treatment of the corridor / set-back from the river.
- Commercial / retail viability.
- General design and relationship with adjoining lands to the northeast and their development potential.
- Existing telecoms mast.
- Traffic and parking. Building-set back to allow for widening of Richmond Road.

## 6.0 **Planning Policy**

### 6.1. **National and Regional Planning Policy**

#### 6.1.1. **Project Ireland 2040 - National Planning Framework**

National Strategic Outcome 1 is identified as Compact Growth, recognising the need to deliver a greater proportion of residential development within existing built-up areas. Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

Objective 3A seeks the delivery of at least 40% of all new housing in existing built-up areas of cities, towns and villages on infill and/or brownfield sites.

Objective 11 favours development within existing cities, towns and villages, subject to appropriate planning standards and achieving targeted growth

Objective 13 provides that, in urban areas, planning and related standards will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth.

Objectives of Chapter 6, 'People Homes and Communities', including Objective 27, seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities.

Objective 33 seeks to prioritise the new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

#### **6.1.2. Rebuilding Ireland – Action Plan for Housing and Homelessness 2016**

The plan identifies five pillars for action. Pillar 3: Build More Homes, seeks to increase the output of private housing to meet demand at affordable prices. The key action is to double housing output over the Plan period.

Pillar 4: Improve the Rental Sector. The key objective is addressing obstacles to greater private rented sector delivery and improving the supply of units at affordable rents. Key actions include encouraging “build to rent”. Build-to-rent developments are designed with the occupants in mind – this might be equal sized bedrooms clustered around a central shared space, or the inclusion of amenities such as gyms and crèches and shared entertainment facilities.

#### **6.1.3. Housing for All - A New Housing Plan for Ireland (Sept 2021)**

The stated aim is to provide access to a home to purchase or rent at an affordable price, built to a high standard and in the right place, offering a high quality of life. The

plan identifies the need for construction of an average of 33,000 homes per annum nationally until 2030 to meet the targets outlined in the National Planning Framework. Four overarching objectives are identified:

- Supporting Homeownership and Increasing Affordability.
- Eradicating Homelessness, Increasing Social Housing Delivery and Supporting Social Inclusion.
- Increasing New Housing Supply; and
- Addressing Vacancy and Efficient Use of Existing Stock.

The Pathway to Increasing New Housing Supply includes a focus on the adequate supply of serviced zoned lands to meet housing need, at required densities.

#### **6.1.4. Regional Spatial and Economic Strategy for the Eastern and Midland Region**

The Strategy supports the implementation of Project Ireland 2040 and the National Planning Framework (NPF).

RPO 3.2: Promote compact urban growth, targets at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

The site lies within the Dublin Metropolitan Area (DMA). The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas to ensure a steady supply of serviced development lands to support sustainable growth. Section 5.3 identifies guiding principles for development of the MASP area including:

Compact sustainable growth and accelerated housing delivery – To promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate housing supply in order to achieve higher densities in urban built up areas, supported by improved services and public transport.

#### **6.2. S.28 Ministerial Guidelines**



6.2.1. Having considered the nature of the proposal, the receiving environment, the documentation on file, including the report of the Chief Executive, and observers' submissions, I am of the opinion, that the directly relevant section 28 Ministerial Guidelines are:

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities.
- Urban Development and Building heights, Guidelines for Planning Authorities.
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated 'Urban Design Manual').
- Circular Letter: NRUP 02/2021 in respect of Residential Densities in Towns and Villages, as set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)
- Design Manual for Urban Roads and Streets (DMURS).
- National Cycle Manual.
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated 'Technical Appendices').
- Childcare Facilities – Guidelines for Planning Authorities.
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment.

### 6.3. **Local Planning Policy – Dublin City Development Pan 2016 - 2022**

The site is zoned Z10 – 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/residential use the predominant use in inner city areas.

The primary uses in this zone are residential, office and retail. An appropriate mix of uses for any given site will be influenced by site location and other planning policies applicable to the associated area. A range of smaller uses will also be facilitated.

The concept of mixed-use is central to the development or re-development of these sites and mono uses, either all residential or all employment/office use shall not generally be permitted.

Lands zoned Z10 will cater for a relatively intensive form of development, and the range of uses permitted will be similar to Z5 but not as intensive or wide-ranging, reflecting the location of the sites and interactions with surrounding established land-uses. Accessibility may be an issue in the development of Z10 lands, and where significant numbers of employment and or residents are envisaged, a travel plan will be required.

Chapter 5 sets out policies for quality housing.

QH5 promotes residential development through active land management and a coordinated planned approach to developing appropriately zoned lands including regeneration areas, vacant and under-utilised sites.

QH6 encourages attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures.

QH8 promotes the sustainable development of vacant or under-utilised infill sites and higher density proposals which respect the surrounding area.

QH17 supports the provision of purpose-built, managed high-quality private rented accommodation with a long-term horizon.

The south eastern part of the site is identified as part of a Conservation Area associated with the River Tolka. Policy CHC seeks to protect the special interest and character of all Dublin's Conservation Areas.

Chapter 10 Green Infrastructure, Open Space & Recreation

Policy GI3: To develop linear parks, particularly along waterways, and to link existing parks and open spaces in order to provide green chains throughout the city. Where lands along the waterways are in private ownership, it shall be policy in any development proposal to secure public access along the waterway.

Objective GIO4: To improve pedestrian and cycle access routes to strategic level amenities while ensuring that ecosystem functions and existing amenity uses are not compromised and existing biodiversity and heritage is protected and enhanced.

Rivers, Canals and the Coastline

Policy GI16: To protect and improve the unique natural character and ecological value of all rivers within and forming boundaries to the administrative area of Dublin City Council, in accordance with the Eastern River Basin District management plan

Objective GIO18: To protect and improve the natural character of watercourses, including the Dodder, and to promote access, walkways, cycleways and other compatible recreational uses along them, having regard to environmental sensitivities.

Chapter 16 deals with Development Standards: Design, Layout, Mix of Uses and Sustainable Design. The indicative plot ratio for Z10 lands is 2.0 – 3.0, while the indicative site coverage is 50%. Section 16.7.2 identifies a general building height limit of 28m commercial or 24m residential in this area of the city.

Section 16.10 deals with Standards for Residential Accommodation. Proposed developments shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice (Building Research Establishment Report).

## **7.0 Submissions Received**

Irish Water: Confirmation of Feasibility has been issued to the applicant advising that connection(s) are feasible. Separate storm and foul water connection services should be provided. Current storm water discharge must be removed from the wastewater network. Connection(s) to the public network are subject to a Connection Agreement with Irish All development is to be carried out in compliance with Irish Waters Standards Codes and Practices.

## **8.0 Forming the Opinion**

Pursuant to section 6(7) of the Act of 2016, regard is had in the forming of the opinion to the documentation submitted by the prospective applicant; the planning authority submission and the discussions which took place during the tripartite consultation meeting.

## 8.1. Documentation Submitted

The prospective applicant has submitted information pursuant to section 5(5)(a) of the Planning & Development (Housing) and Residential Tenancies Act 2016 and Article 285 of the Planning and Development (Strategic Housing Development) Regulations 2017. The information submitted is listed in Appendix 1 to this report.

Section 5(5)(b) of the Act of 2016 requires the submission of a statement that, in the prospective applicant's opinion, the proposal is consistent with both the relevant objectives of the development plan or local area plan concerned, and relevant guidelines issued by the Minister under section 28 of the Act of 2000. Section 5(6) requires that where the proposed development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the statement provided for the purposes of subsection (5)(b)(i) shall indicate why, in the prospective applicant's opinion, permission should nonetheless be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.

Statements required under S.5(5) and 5(6) above have been submitted in this regard and I have considered all of the documentation submitted by the prospective applicant, relating to this case.

## 8.2. Statement of Consistency

The statement considers the following national, regional and local policy documents

- Project Ireland 2040 – National Development Plan 2018-2027;
- Project Ireland 2040 – The National Planning Framework;
- National Spatial Strategy 2002-2020;
- Action Plan for Housing and Homelessness, Rebuilding Ireland;
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (December 2020);
- Urban Design Manual – A Best Practice Guide (2009);
- Design Manual for Urban Roads and Streets (2013);

- Urban Development and Building Heights – Guidelines for Planning Authorities (December 2018); and
- The Planning System and Flood Risk Management (2009)
- Regional Planning Guidelines for the Greater Dublin Area 2010-2022;
- Regional Spatial and Economic Strategy for the Eastern and Midland Regional Assembly; and • Metropolitan Area Spatial Plan for Dublin City and Suburbs.
- Dublin City Development Plan 2016-2022

The statement notes the following points:

- The development is a direct response to the national housing shortage and is consistent with the policy objectives of the NPF, as it provides one- and two-bedroom Build-to-Rent units with a range of supplementary resident facilities to meet resident's needs.
- The NPF supports increased density and height having regard to the underutilised infill nature of the site close to public transport, employment locations, services and facilities.
- The site is ideally positioned to absorb the proposed heights.
- The provision of high-quality communal spaces will encourage social interaction between residents, creating a strong sense of community.
- The development responds to current trends in tenure and household formation and will positively contribute towards addressing the deficit in housing supply.
- The proximity to the city centre, which is easily accessible by foot, by bicycle and by public transport, will encourage more sustainable modes of transport.
- The scheme will contribute positively to the regeneration of the area and provide animation along Richmond Road.
- Supporting documents have been prepared to meet policy objectives relating to waste and environmental issues.
- The development is consistent with the policy guidance as set out within the National Spatial Strategy 2002 – 2020.
- The development satisfies the specified criteria set out in Section 3.2 of the Building Height Guidelines and is in accordance with national legislation to increase height and density in appropriate locations.

- The development complies with SPPR 1, 3, 4, 5, 7 and 8 of the Apartment Design Guidelines, and the design standards contained therein.
- The development satisfies the 12 No. key indicators for developments in urban areas set out in the Urban Design Manual.
- The scheme is consistent with the key policy goals as set out in Smarter Travel – A Sustainable Transport Future A New Transport Policy for Ireland 2009 – 2020.
- A DMURS Statement accompanies the application.
- A Flood Risk Assessment has been prepared and the proposed development is acceptable having regard to the objectives of The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).
- The development is consistent with the Regional Planning Guidelines for the Greater Dublin Area 2010-2022 and the policy objectives of the RSES for the Eastern and Midlands Region, including the consolidation of urban areas.
- The development is consistent with the zoning objective for the site.
- Development Plan policy promoting greater densities and the use of infill / brownfield sites supports such development. Proposed plot ratio and site coverage are within / below the indicative range for the site.
- Densities are consistent with national policy for intermediate urban locations. The higher proportion of 1-bed units disproportionately inflates the density figure.
- Building height is considered in the Material Contravention Statement.
- Public open space of 17% of the site is compliant with the Development Plan.
- Car parking provision below the maximum Development Plan standard is justified by the site location and the provisions of the Apartment Design Guidelines.
- Bicycle parking provision exceeds the development plan standards.
- The Richmond Road Area Action Plan, 2007 provides for an 8m corridor along the river, with access from Richmond Road.
- The scheme is set back between 10.6m and 11.2m from the edge of Richmond Road to enable future improvement works.

### 8.3. **Material Contravention Statement**

A Material Contravention Statement is submitted in respect of the following matters

- Building Height with reference to Chapter 16 of the Development Plan;

- Dwelling Mix with reference to Section 16.10.1 of the Development Plan; and
- Number of units provided per core with reference to Section 16.10 of the Development Plan.

#### Building Height:

- Development plan policies on building height preceded the Urban Development & Building Height Guidelines, to which regard must be had.
- Development plan height restrictions are contrary to SPPR 1 which notes that plans should not provide blanket numerical limitations on building height.
- The development of this underutilised infill site within a mixed-use area will contribute towards compact growth in line with the objectives of the NPF.
- The criteria set out on Section 3 of the Building Height Guidelines are satisfied and, in accordance with SPPR 3 permission may be granted for the development.
- The site can be considered an Intermediate Urban Location and the proposed height and density is in accordance with the Apartment Guidelines, 2020.
- The intensification and consolidation of development on an infill site in a built-up area accords with RPO 4.3 and RPO 5.5 of the RSES.

#### Dwelling Mix

- The proposed dwelling mix is in accordance with SPPR8 for BTR development. Further, the proposed dwelling mix is stated to be in accordance with SPPR1 of the Apartments Guidelines and is therefore acceptable in line with Section 37 (2)(b)(iii) of the Act.

#### Units per core

- The number of units per core is in accordance with SPPR 6 of the Apartment Design Guidelines, and is therefore acceptable in line with Section 37 (2)(b)(iii). Furthermore, SPPR8(v) states that the maximum number of units per core does not apply to Build-to-Rent schemes.

#### Conclusion:

- An Bord Pleanála may grant permission where national policy takes precedence over the objectives of the Development Plan as prescribed in Section 37(2)(b) of the Planning and Development Act (as amended).
- Given the progression of national policy, the Building Height Guidelines take precedence over the height prescriptions of the Development Plan
- The proposed dwelling mix is in accordance with SPPR8(i) of the Apartment Design Guidelines.
- The Development Plan should be read in conjunction with SPPR6 and SPPR8(v) of the Apartment Guidelines in relation to the number of units per core.
- There is sufficient justification for An Bord Pleanála to grant permission for the proposed development, notwithstanding any material contravention of the Dublin City Development Plan 2016-2022, by reference to sub-paragraphs (iii) and (iv) of Section 37(2)(b) of the 2000 Act.

#### 8.4. Planning Authority Submission

A submission from Dublin City Council was received by An Bord Pleanála on the 26/07/2021 in accordance with Section 6(4)(b) of the 2016 Act. The submission includes a statement of the planning authority's opinion, details of S.247 consultation meetings held and details of relevant planning applications in the area. The submission was also accompanied by copies of internal technical reports.

The report containing the opinion of the planning authority makes the following points:

- Increased population in this area will help the viability of local services and facilities and is consistent with national policy objectives in relation to urban consolidation, and is compatible with the of the 'Z10' zoning objective.
- In urban design terms the proposal efficiently consolidates underutilised, zoned and serviced lands within the city area and complies with the relevant objectives of the site's Z10 zoning.
- While there has been a piecemeal approach to the redevelopment of this Z10 zoned character area - the proposal will be one of the last plots to be developed and will set a precedent for any future redevelopment of the Leyden Cash &



Carry site. The applicant should provide a masterplan encompassing both landholdings.

- The site is zoned Z10 'Inner Suburban and Inner City Sustainable Mixed Uses' which suggests an intention in terms of the intensity of future development.
- In the interests of compact urban growth and increased densities, specific development plan height restrictions have now been superseded by the Building Heights Guidelines for which supplements the National Planning Framework.
- In line with national policy, this 'Z10' site and would be anticipated as accommodating larger densities and heights. The proposal has a relatively low site coverage and allows a set back from the Tolka River.
- The robust finishes are welcome. Some improvements to ground floor elevations are identified. Future development of the Leydons site would substantially screen the development.
- The development plan unit mix requirements are superceded by the Apartment Design. A Housing Need Demand Assessment has not yet been agreed.
- All apartments meet or exceed the guideline standards.
- The number of units per stair core materially contravenes the development plan standard.
- A sizable number of apartments comprise north-facing single-aspect units.
- Clarification is required regarding the delivery and accessibility of the riverside public open.
- One apartment fails to achieve adequate daylight values and the design of its compensatory terrace is problematic due to obstruction by overhead balconies.
- The development may impact on units in Deakins Court and communal open space, by way of overlooking or impacts on outlook. The northwestern block should be reoriented away toward the river.
- Sufficient separation to the Leyden cash & carry site and any potential residential development thereof is maintained.
- Internal overlooking within the development should be reviewed.
- The security and surveillance of the northwestern pedestrian route should be reviewed. Interaction with the basement entrance should be clarified.
- Part V discussions will be required at application stage.

## Conclusion

While the proposal would be broadly consistent with the proper planning and sustainable development of the area and national policy with regard to apartment accommodation, a number of concerns should be addressed in addition to issues raised by DCC's technical departments as outlined below:

- The height should be reduced to no more than 7 / 8-storeys along the River Tolka to allow for a better transition to the proposed 6 storey block, better integration with buildings along Richmond Road and given that the site is not particularly well served by public transport.
- 1 no. café unit does not provide a satisfactory mix of uses to comply with the Z10 zoning objective. The Development Plan notes that mixed-use is central to the development of these sites and mono uses shall not generally be permitted.
- All appropriate consents should be obtained given that part of the riverside area is outside the applicant's site.
- The applicant should provide a synopsis of the residential unit profile and tenure mix in the Z10 character area / Richmond Road area.
- The reciprocal implications of any potential development of the adjacent Leyden's cash & carry site should be considered in terms of potential overlooking, obstruction to daylight and obstruction to sunlight.
- An indicative masterplan should address the relationship between these sites in terms of shared communal and/or public open space, and access.
- The applicant should also look at potential reciprocal daylight, sunlight impacts on 'Z12' zoned lands located across the river and 'Z9' zoned river corridor lands.
- Measures to enliven ground floor elevations should be considered. Any extensive plinth or external staircase elevations should be softened with 'green walls' etc.
- Contiguous views should be provided for the extended Richmond Road streetscape noting the heights of existing or proposed development.
- Basement/podium vents should be located away from apartment elevations.
- The applicant should submit a 'Building Life Cycle Report' with any application.
- The schedule of accommodation should identify balcony depths.

- Usable and sufficiently sunlit communal open space, primarily accessible to future residents should be provided at ground floor level, suitably differentiated from public open space and public access routes.
- Details of the management of public access from Richmond Road to the river corridor should be provided.
- Clarity is required on the design of the north-western pedestrian route.
- Surface finishes to the riverside walk/cycle way should be detailed.
- A children's play area should be provided
- BTR resident amenities should include toilet and changing room facilities.
- Elevations should be revised to avoid impacts on the rear of Deakin Court.
- Clarify potential overlooking of rear gardens of dwelling to the northeast.
- Minimise overlooking between windows and balconies within the development.
- Review the private open space arrangement to 1st floor apartment L1.07.
- Maximise the use of internal privacy hall/lobbies within apartments and arrange apartment doorways along corridors in a hit & miss arrangement.
- Minimise potential noise and disturbance experienced by apartments such as L1.08 from the entry/exit to the basement below.
- Typical north facing single aspect units which overlook Leyden's cash & carry should incorporate an alternative outlook.
- The 2% ADF target value for combined K/D/L space should be met or sufficient compensatory measures provided.
- 'Before' and 'after' shadow studies should be provided in plan-view/2-D. A sun-on-ground study should be provided for the proposed public open space.
- Review sunlight access to the main 8th floor communal space.
- Maximise daylight access to internal corridors, landings and lobbies.
- Consider any solar dazzle impacts upon residential amenity, traffic safety and aircraft safety.
- External lighting should comply with best practice and should be 'bat friendly'.
- The applicant should consult with the Dublin City Childcare Committee (DCCC) prior to making of any application to ABP.

The report is accompanied by copies of internal reports from the following depts:

- Transportation Planning
- Drainage
- Archaeology
- Environmental Health Officer
- Housing
- Parks, Biodiversity and Landscape Services
- Waste Regulation and Enforcement Unit

In addition to the points raised above, I note the following comments from these reports in particular:

Transport Planning Division:

- The entrance and parking design may conflict with the future Richmond Road Improvement Scheme.
- The required set-back from the River Tolka for the future Greenway route should relate to the building line and also to private or semi-private communal space.
- Clarification is required as to the delivery of the proposed pedestrian / cycle facility and its interface with open space provision.
- Insufficient detail with regard to the interface with Richmond Road is provided.
- Potential conflicts between pedestrians, cyclists and vehicles site at the entrance, parking and set-down bays, should be addressed.
- A Servicing and Operations Plan is required.
- Clarity is required on the route and design of the northwestern pedestrian/cycle between Richmond Road and the River Tolka.
- Assess potential for a pedestrian and cyclist crossing on Richmond Road.
- Emergency / fire vehicle access proposals should be reviewed. Use of the riverside pedestrian / cycle route is not supported.
- Clarity on residential car parking is required and should be supported by an MMP and Car Parking Strategy. Review discrepancies in basement layouts.
- Clarify the number, design and functionality of bicycle parking spaces. Provide for non-standard bike parking such as cargo bikes and bicycle service areas.

Archaeology Section:

- The site should be subject to an archaeological (and impact) assessment before any site clearance/construction work commences.

Drainage Division:

- Outline how the difference between the height of the existing OPW Flood Defence wall and the proposed flood defence wall shall be addressed.
- Outline current overland flow routes from adjacent lands and subsequent effects / mitigation measures.
- Consents to be provided from third parties whose infrastructure is incorporated into the Drainage Design proposal.
- Address how the quality of surface water discharge is ensured and potential issues from infiltration from permeable paving, to prevent contaminants entering the adjacent Tolka River.

Parks, Biodiversity & Landscape Services:

- Current planning applications on Clonliffe institutional lands to the west would see an extension of public recreational access along the Tolka.
- Removal of all trees along the river is unacceptable.
- The landscape architectural design approach requires review to conserve the natural habitat of the river bank, retain existing trees and enhance river habitats.
- The development will therefore impact on this conservation area.
- There is a lack of space to create an appropriate public linear walk and conserve the existing river corridor vegetation. Set back of the building blocks is required.
- Further details on the boundaries and access arrangement to the public open space within the site are required.
- The layout is contrary to Development Plan Policy GI16 and objective GIO18.

## 8.5. The Consultation Meeting

A Section 5 Consultation meeting on 15th September 2021, commencing at 4pm, via Microsoft Teams. I refer to the record of the meeting in respect thereof.

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

1. Development Strategy
2. Access, parking and service arrangements
3. Open space – communal and public open space
4. Residential Amenity
5. River Tolka- Flooding  
Pedestrian / Cycle route  
Impacts of trees
6. AOB

Both the prospective applicant and the planning authority were given an opportunity to comment and respond to the issues raised by the representatives of ABP. Those comments and responses are recorded in the 'Record of Meeting ABP-310653-21' which is on file. I have fully considered the responses and comments of the prospective applicant and planning authority in preparing the Recommended Opinion hereunder.

In relation to the Development Strategy, An Bord Pleanála sought further clarification / discussion on the following:

- The mix of uses proposed and compliance with the Z10 zoning objective of the Development Plan for the site.
- The design rationale and justification for the height and scale of buildings proposed on the site.
- The relationship of the development with the adjoining lands to the northeast and the potential redevelopment of those lands.

In relation to access, parking and service arrangements, An Bord Pleanála sought further clarification / discussion on the following:

- The nature and status of City Council proposals for the widening and improvement of Richmond Road.
- Clarification of ownership boundaries at the entrance from Richmond Road.
- The design and layout of the proposed vehicular entrance, parking and set-down areas, and potential conflicts at the entrance from Richmond Road.
- Justification for the extent of car parking provision for this BTR scheme.
- The status of the DMURS compliance statement submitted.
- Design of the northwestern pedestrian access, in terms of convenience, amenity, safety and security.

In relation to the open space – communal and public open space, An Bord Pleanála sought further clarification / discussion on the following:

- The definition and quantum of open space provision across the site, and the distinction between public and communal residential amenity spaces.
- Landscaping design to delineate open space of differing function.

In relation to the Residential Amenity, An Bord Pleanála sought further clarification / discussion on the following:

- The quality of private residential amenity space and overlooking and privacy within the development as raised in the planning authority report.
- Relationship with adjoining residential development to the west, at Deakins Court.
- The assessment of daylight and sunlight impacts on properties to the north.
- The relationship with any development on the adjoining lands to the northeast and potential reciprocal impacts on residential amenity in terms of aspect and daylighting.

- The assessment of upper floor / roof terraces as part of the microclimate assessment.

In relation to the River Tolka - flooding, pedestrian / cycle route and impacts on trees, An Bord Pleanála sought further clarification / discussion on the following:

- Ownership boundaries along the riverbank.
- The requirements of Dublin City Council in respect of the design of the riverside walk / cycle route, including intent regarding taking in charge.
- The nature and extent of works proposed along the river frontage, including flood works, and detail of the proposed riverside boundary.
- Alternative solutions to meet flood risk management requirements and retain existing riverside trees and vegetation.
- Accommodation of emergency vehicle access requirements within the development.
- Details regarding the connection of the pedestrian / cycle route to adjoining lands.

## 9.0 Conclusion and Recommendation

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 the prospective applicant, the submissions of Irish Water and of the planning authority and the discussions which took place at the tripartite meeting. I have had regard to both national policy, including relevant s.28 Ministerial Guidelines, and local policy, via the statutory plan for the area.

Having regard to all of the above, I recommend that further consideration and / or possible amendment of the documents submitted are required at application stage in respect of the following elements:



1. Justification for the proposed height, scale and mass of development on the site.
2. The access and servicing arrangements for the proposed development.
3. The relationship with adjoining lands to the northeast, stated to be in the prospective applicants ownership, and the development potential thereof.
4. The nature and extent of works required to address flood risk arising on the site and delivery of the pedestrian and cycle route along the River Tolka.

Having regard to the above, I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 6(7)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016, stating that it is of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act **requires further consideration and amendment** in order to constitute a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

I would also recommend that the prospective applicant be notified, pursuant to article 285(5)(b) of the 2017 Regulations, that specified information (as outlined hereunder) be submitted with any application for permission that may follow. I believe the specified information will assist the Board at application stage in its decision making process. I am also recommending that a number of prescribed bodies (as listed hereunder) be notified by the prospective applicant of the making of the application.

## 10.0 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.**

In the opinion of An Bord Pleanála, the following issues need to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could result in them constituting a reasonable basis for an application for strategic housing development:

1. Further consideration, and a robust planning and design rationale for the height and massing of buildings proposed for the site, and possible amendment to achieve greater articulation and visual relief. The design response should reflect the specific characteristics of the site and its context, demonstrating how it achieves an appropriate relationship with surrounding development. Further assessment of the development in views from the north and south should be undertaken in this regard, including views from Grace Park Road and from Richmond Road in proximity to the development site, and from residential roads to the south of the site.

This may require possible amendment to the documents and/or design proposals submitted.

2. Further consideration of, and possible amendment to the documents and/or design proposals submitted, having regard to the development potential of adjoining lands to the northeast (Leydens), which are understood to be in the control / ownership of the prospective applicant.

In this regard, an indicative masterplan should be submitted which should demonstrate how the development of the overall lands can be achieved having regard to the protection of residential amenity, potential for shared communal and/or public open space, and access arrangements. Such masterplan may have also regard to the matters raised under item no. 1 above.

3. The application should provide full and detailed design proposals in respect of access arrangements from Richmond Road. Such proposals should provide for safe vehicular, pedestrian and cycle access to the site and demonstrate that conflicting movements do not arise. An operational service management plan for the site should also be submitted in this regard. The design proposals should demonstrate how satisfactory access and egress to the site will be provided in both the current scenario and following completion of proposed future widening and improvement works on Richmond Road.
  
4. Further consideration and clarification in relation to the nature and extent of works required to address flood risk arising on the site. Application documentation should identify and assess alternative options for the design of such works, and provide a robust rationale for the solution proposed, having regard to the location of the site within an area identified as a Conservation Area in the Dublin City Development Plan 2016-2022 and potential impacts on existing trees and vegetation on the site.

Details to be provided should include detailed plan, section and elevation drawings describing all works and structures proposed along the riverbank, and identifying existing and proposed ground levels. The interaction between these works and delivery of the pedestrian / cycle greenway route along the River Tolka should be clearly described.

The works proposed in this regard should be included within the scope of other assessments undertaken in respect of this application including, but not limited to:

- Site Specific Flood Risk Assessment
- Landscape and Visual Impact Assessment
- Appropriate Assessment Screening Report
- Natura Impact Statement
- Ecological Impact Assessment Report
- Environmental Impact Assessment Report.
- Archaeological, Architectural and Cultural Heritage Impact Assessment
- Construction and Environmental Management Plan

Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that, in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission:

- a) Clarity with regard to ownership of the site and where the applicant is not the legal owner of the land concerned, the written consent of the owner to make the application should be provided.
- b) Application documentation should demonstrate how the proposed development and the mix of uses therein, complies with the Z10 land use zoning objective for the site under the current Dublin City Development Plan 2016-2022.
- c) Demonstrate how consideration has been given to the issues of residential amenity raised in the report of the planning authority dated 26<sup>th</sup> July 2021 particularly in respect of privacy and overlooking between proposed dwelling units and the quality of private residential amenity spaces.
- d) The application should clearly demonstrate how the development will limit the potential for overlooking of adjoining residential properties. Additional cross section and contextual elevation drawings should be provided to demonstrate the relationship with adjoining properties, particularly Deakins Court to the west.
- e) The Microclimate assessment accompanying the application should address the safety and comfort of communal residential amenity spaces, including roof terraces and upper floor balconies, both within the site and on adjoining lands. Any required mitigation or other design measures arising from such assessment should be clearly detailed in the application.
- f) Further clarification and justification for the type and level of communal residential facilities to be provided on the site having regard to the Build to Rent nature of the proposed development, in accordance with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020) and SPPR 7 contained therein.

- g) Detail regarding the provision of public open space and accessible, secure and usable communal residential open space within the development. Areas required for vehicular access and circulation space such as public footpaths, should not be included within defined amenity spaces. The treatment and landscaping of the site to define and delineate such spaces appropriate to their function, should be clearly set out and illustrated with appropriate plan and sections drawings.
- h) Proposals for the management and operation of the proposed development as a 'Build-to-Rent' scheme in accordance with Specific Planning Policy Requirement No. 7 of the Guidelines on Design Standards for New Apartments, including detailed proposals for the provision and management of support facilities, services and amenities for residents. A Building Lifecycle Report in accordance with section 6.13 of the guidelines should also be submitted and shall detail the appropriate use of external materials on all elevations. The plan shall also address the management and maintenance of public spaces and access to the development.
- i) Further details of the proposed materials and finishes to the scheme. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details, which have due regard to the context of the site. The details to be provided should also include the treatment of roof terraces, courtyards, landscaped areas and the public realm.
- j) The application should be accompanied by the following:
  - i. A Traffic Impact Assessment, a preliminary Construction Traffic Management Plan and a Mobility Management Plan.
  - ii. A quality audit in accordance with Annex 4 of DMURS.
  - iii. A rationale for the quantum of car parking proposed on the site having regard to the provisions of the SPPR8 of the *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities*, in respect of Build-to-Rent developments. A Car Park Management Strategy Plan should be provided in in this regard.
  - iv. A rationale for the proposed fire / emergency vehicle access arrangements having regard to the comments of the Dublin City Council Transportation

planning section with regard to use of the proposed pedestrian / cycle greenway in this regard.

- k) A Construction and Demolition Management Plan and an Operational Waste Management Plan should be provided having regard to the inner urban nature of the site. The Construction and Demolition Management Plan should consider the potential for the presence of hazardous materials within existing structures or contaminated soils within the site.
- l) The application should clearly identify the areas intended to be taken in charge by the Local Authority and / or the National Transport Authority, where appropriate.
- m) Address the issues and recommendations set out in the internal departmental reports of Dublin City Council, including, inter alia,
  - The report of the Archaeology Section dated 19<sup>th</sup> July 2021.
  - The Engineering Department – Drainage Division, dated 22<sup>nd</sup> July 2021.

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. NTA
2. Childcare Committee
3. Inland Fisheries Ireland
4. Waterways Ireland
5. Irish Water
6. Heritage Council
7. An Taisce
8. Minister for Housing, Local Government and Heritage

**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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Conor McGrath  
Senior Planning Inspector

17/09/2021

## **Appendix 1:**

**The pre-application consultation request is accompanied by the following documentation:**

- Planning Report
- Statement of Consistency
- Architect Design Statement
- Infrastructure Design Report
- Site Specific Flood Risk Assessment
- Preliminary Construction & Environmental Management Plan
- Traffic and Transport Assessment Report
- Mobility Management Plan
- DMURS Design Statement
- Richmond Road Development – Ground Investigation
- Landscape Planning Report
- Landscape and Visual Impact
- Assessment – Preliminary Statement
- Arboricultural Report
- Appropriate Assessment Screening Report
- Nature Impact Statement
- Ecological Impact Assessment Report
- Ecology Note
- Environmental Impact Assessment Report.
- Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 (as amended)
- Invasive Species - Site Assessment Report and Management Plan
- Noise & Vibration Impact Assessment
- Operational Waste Management Plan
- Construction & Demolition Waste Management Plan
- Microclimate Assessment
- Daylight and Sunlight Assessment Report
- Verified Views and CGIs
- Part L Planning Compliance for the
- Mechanical and Electrical Services
- Installations.
- Architectural Heritage Impact Assessment
- An Archaeological, Architectural and Cultural Heritage Impact Assessment
- Social Infrastructure Audit
- Childcare Demand Assessment
- Architectural Drawings by RKD Architect
- Engineering Drawings by DBFL Consulting Engineers
- Landscape Drawings by Mitchell & Associates Landscape Architects
- Lighting Layout by AxisEng
- Arboricultural Drawings by The Tree File Limited