



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-310833-21

Strategic Housing Development

134 no. Build-to-Rent apartments and associated site works.

Location

Site bound by Newmarket to the North, Ardee Street to the West and Mill Street to the South, Newmarket, Dublin 8 (including City House and Unit 3, Newmarket, Dublin 8)

Planning Authority

Dublin City Council

Prospective Applicant

Nrek1 Limited

Date of Consultation Meeting

14th October 2021

Date of Site Inspection

17th September 2021

Inspector

Rachel Gleave O'Connor

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 site is located in the Liberties area in the inner City area of Dublin, to the south of Newmarket Square, and bounded by Ardee Street to the west and Mill Street to the south. To the east is a construction site for non-residential use that is nearing completion.
- 2.2. The site is occupied by a group of largely two storey warehouse and commercial buildings, including one in use as a place of worship and one in use as by a taxi company. The wider area is characterised by 2 storey residential housing estates to the south west and west, with mixed urban development at a higher scale taking place to the north and east of the site. To the east is the Teelings Distillery, an ESB substation and the Dublin Liberties Distillery, all characterised by industrial style buildings of an equivalent of 2-3 storeys in height.
- 2.3. A conservation area overlaps the site for Newmarket Square to the north, and there are protected structures in the vicinity of the site on Newmarket and Mill Street.

3.0 Proposed Strategic Housing Development

- 3.1. The proposed development involves 138 no. Build-to-Rent units as follows:

| Unit Type | Number |
|-----------|--------|
| Studio | 1 |

| | |
|-------|-----|
| 1 bed | 95 |
| 2 bed | 38 |
| Total | 134 |

The development has a net residential density of c. 705 units/ha based on a development area of c. 0.19 ha. The development scheme comprises the following:

- Demolition of existing single and two storey commercial buildings on site and the construction of a 6-9 storey building incorporating 700sqm of ground floor commercial use and 134 no. BTR units;
- Residential amenities and facilities, including co-working space and BTR residents foyer;
- 238 no. bike parking spaces at ground floor;
- Communal external amenity space of 1,094sqm in the form of 5 no. roof terrace communal gardens and large central courtyard podium space;
- Private external amenity in the form of balconies;
- Ground floor level plant and energy centre, 2 no. ESB substation and switch rooms, refuse / bin storage area, lighting proposals, landscaping, boundary treatments, attenuation proposals, water service connections, foul and surface drainage connections and all associated and ancillary site works.

4.0 Planning History

- 4.1. PA. Ref. 5602/04: Permission granted for internal alterations including the installation of a new first floor, toilets and stairs; minor alterations to the external façade, and change of use from light industrial to community / place of worship use at Unit 3, Newmarket Square and corner of Ardee Street and Mill Street, Dublin 8.

5.0 National and Local Planning Policy

5.1. Section 28 Ministerial Guidelines

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

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) 2009
- Design Standards for New Apartments Guidelines for Planning Authorities 2020
- Design Manual for Urban Roads and Streets (DMURS) 2019
- The Planning System and Flood Risk Management (including the associated Technical Appendices) 2009
- Childcare Facilities Guidelines for Planning Authorities 2001
- Urban Development and Building Heights Guidelines for Planning Authorities 2018
- Architectural Heritage Protection Guidelines for Planning Authorities 2011

5.2. **National Planning Framework**

5.3. The NPF seeks to achieve compact urban growth by targeting a greater proportion (40%) of future housing development to be within and close to the existing 'footprint' of built-up areas and plans for growth of 490,000 to 500,000 people in the Eastern and Midlands Region.

5.4. The National Planning Framework includes a specific Chapter, No. 6, entitled 'People Homes and Communities'. It includes 12 objectives among which 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 for all ages.

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

5.6. 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.

5.7. Dublin City Development Plan 2016-2022

5.8. Zoning: 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/retail/residential the predominant uses in the inner city areas.'

5.8.1. General: The Dublin City Council Development Plan 2016-2022 contains the planning policies applicable to the site. The policy chapters, especially Chapters 4 – Shape and Structure of the City, 5 – Quality Housing, and 12 – Sustainable Communities and Neighbourhoods, detailing the policies and objectives for residential development, making good neighbourhoods and standards respectively, should be consulted to inform any proposed residential development. Policy SC25 in Chapter 4, concerns the promotion of development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city's built and natural environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate. (Chapter 16 deals with Development Standards: Design, Layout, Mix of Uses and Sustainable Design. Section 16.7.2 deals with Height Limits and Areas for Low-rise, Mid-Rise and Taller Development, Section 16.10 – Standards for Residential Accommodation).

6.0 Forming of the Opinion

6.1. 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 submissions and the discussions which took place during the tripartite consultation meeting. I shall provide a brief detail on each of these elements hereunder.

6.2. Documentation Submitted

6.2.1. 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. This information included, inter alia, the following:

- Application Form for Strategic Housing Development Section 5 Pre-Application Consultation Request;
- Planning Report and Statement of Consistency;
- Material Contravention Statement;
- Architectural Drawings;
- Part V Proposals and Drawings;
- Verified Photomontage Booklet;
- Landscaping Drawings and Drawing Schedule;
- Site Lighting Report and Sustainability Report;
- Daylight, Sunlight and Overshadowing Study;
- Justification for Build-to-Rent Housing Development in Dublin 8;
- Natura Impact Statement;
- Architectural Conservation Report;
- Archaeological Desktop Report;
- Engineering Drawings and associated Drawing Schedule;
- Infrastructure Report;
- Site Specific Flood Risk Assessment;
- Residential Travel Plan / Mobility Management Plan;
- Parking Report;
- DMURS Compliance Statement;
- Outline Construction and Environmental Management Plan and Outline Construction and Demolition Waste Management Plan.

- 6.2.2. 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 the relevant guidelines issued by the Minister under section 28 of the Act of 2000. These statements have been submitted, as required.
- 6.2.3. I have reviewed and considered all of the above-mentioned documents and drawings.

6.3. Planning Authority Submission

- 6.3.1. 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 copy of their section 247 consultations with the prospective applicant and also their opinion in relation to the proposal. The planning authority's 'opinion' included the following matters:
- The proposed development is consistent with relevant zoning objectives.
 - The subject property represents an underutilised site and therefore a higher plot ratio is deemed acceptable in this instance, subject to high quality design and appropriate levels of residential amenity both internal and external to the application site.
 - Proposed height is a material contravention of the Development Plan. Concern regarding the provision of 9 storeys at this location. Introduction of the 9th storey set back is noted, however the setback distance is marginal and the photomontages show that it offers little relief as the overall height, scale and massing of the proposed building would still be visually apparent to the extent that it would dominate views in and out of the conservation area.
 - Architectural treatment of the western elevation is monolithic, the design approach and materials should seek to reduce the visually apparent massing and scale of this element.
 - Planning Authority supports elements of additional height, in line with the Liberties Plan guide of 6-8 storeys for this site, there are concerns regarding the proposed design, scale and height, and the scheme should be reconsidered.

- There is a greater adverse impact on skylight from the proposed 9 storey building than the 8 storey development advocated in the Liberties LAP.
- The overall impact of overshadowing can be classed as a minor adverse impact.
- Concern regarding the lack of family orientated units.
- Minimum floor areas are achieved for units.
- Concern regarding north-facing signal aspect units facing Newmarket Square to the east and Chamber Street/Ardee Street to the west. The planning authority would not consider that these areas would represent amenity features.
- Concern regarding units overlooking the courtyard which is overshadowed and units without balconies.
- Floor to ceiling height conforms with requirements.
- Concern regarding internal amenity spaces for BTR in terms of quantum and quality.
- Management and use / access to roof terrace areas / courtyard space should be clarified.
- There should be public open space provided on the site to contribute to Newmarket Square.
- Concern regarding sunlight to courtyard.

Irish Water

- 6.3.2. The submission from Irish Water (dated 28th July 2021) states that a Confirmation of Feasibility has been issued for a development of 134 units on the site.

6.4. Consultation Meeting

- 6.4.1. A section 5 Consultation meeting took place via a video conference on the 14th October 2021. 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.
- 6.4.2. The main topics raised for discussion at the tripartite meeting were based on the Agenda that issued in advance and contained the following issues:

1. Build-to-Rent Tenure;
2. Height and Design Strategy;
3. Residential Amenity;
4. Ecology;
5. Construction Stage;
6. Any Other Business.

6.4.3. 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-310833-21' 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.

7.0 Conclusion and Recommendation

- 7.1. 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.
- 7.2. I have examined all of the information and submissions before me including the documentation submitted by the prospective applicant, 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 development plan for the area.
- 7.3. Having regard to all of 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 constitutes a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 7.4. 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.

8.0 Recommended Opinion

- 8.1. An Bord Pleanála 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.
- 8.2. Following consideration of the issues raised during the consultation process and having regard to the opinion of the planning authority, and submissions received from statutory consultees referred to under Section 6(10) of the Act, 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.
- 8.3. 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:
 1. Consideration is required of any matters that have potential to be material contraventions of the Development Plan, with submission of a statement regarding the same if required.
 2. The submission of a justification report in relation to BTR use that incorporates a response to likely submissions; data for the locality of the site in terms of housing mix and tenure; management measures; and tenancy details that encourage longer stay (for example: tenancy length, if pets ok, etc.) where possible.

3. Submission of long street elevations to provide context to the proposed design and material finish.
4. The submitted Design Statement should explain the approach to refining and rationalising the elevational appearance of the proposal, including in relation to the top of the building.
5. Explanation of how the quantum and type of internal amenity areas for the proposed BTR use of the site will respond to policy requirements and meet residents needs.
6. Explanation of whether ground floor units in the proposed development are appropriate in relation to their amenity levels and the overall quality of accommodation provided.
7. A plan annotating separation distances between all windows and balconies / terrace areas, to surrounding areas, and between units in the proposal.
8. Explanation of the aspects from units in the proposed development, avoidance of single aspect north units and description of any necessary compensatory measures.
9. A Daylight, Sunlight and Overshadowing Assessment is required to demonstrate how the proposed development responds to recommendations in the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (the BRE guidelines). The methodology of the BRE guidelines should be followed and clearly stated within the submitted assessment. Analysis of all proposed units on each floor should be provided until it can be demonstrated that all units on a floor meet recommended targets, at which point it can be logically assumed units above will also pass (where a stacked arrangement to room use is proposed). APSH analysis of both the proposed accommodation and existing properties should be provided. Overshadowing analysis of all exterior amenity areas both within the development and in surrounding areas should also be provided, or an explanation given as to why analysis is not required. Explanation should also be provided of whether current surrounding development form, or future approved development form is tested.

10. A report that specifically addresses the proposed materials and finishes of buildings, landscaped areas and any screening/boundary treatment. Details to be provided of the edge treatment to the courtyard as it adjoins the neighbouring site. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details which seek to create a distinct character for the development.
11. Explanation of any cumulative impacts arising during construction stage and mitigation associated with this.
12. A explanation of cultural and built heritage interactions and implications.
13. Details of any existing community / place of worship use on the site and how this will be impacted by the proposed works.
14. Additional details and/or revised proposals in relation to comments from Transportation Planning Division at the Planning Authority.
15. Additional details and/or revised proposals in relation to comments from the Drainage Division at the Planning Authority.
16. Additional details and/or revised proposals in relation to comments from the Parks, Biodiversity and Landscape Services at the Planning Authority.
17. A Housing Quality Assessment with regard to relevant national and local planning policy on residential development.
18. 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.

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

1. Minister for Culture, Heritage and the Gaeltacht (Built Heritage and Nature Conservation)

2. Fáilte Ireland
3. The Heritage Council
4. An Taisce – The National Trust for Ireland
5. Irish Water
6. Transport Infrastructure Ireland
7. National Transport Authority

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.

Rachel Gleave O'Connor

Planning Inspector

28th October 2021