



An
Bord
Pleanála

Inspector's Report - Addendum ABP-313546-22

Development	Demolition of building and construction of a mixed use development including 3 residential blocks with 20 apartments and all site development works.
Location	Liberty Market, 71, Meath Street, Dublin 8, D08 A526
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2647/21
Applicant(s)	Michael Fitzgerald
Type of Application	Planning Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party Appeal
Appellant(s)	Dr. Peter Mac Mahon
Observer(s)	St. Catherine's Street Residents
Date of Site Inspection	27 th March 2023
Inspector	Susan Clarke

1.0 Introduction

- 1.1. This report is an addendum to my original report dated the 27th day of March 2023. Both reports relate to a third-party appeal against a Notification of Decision to Grant Permission issued by Dublin City Council for demolition of building and construction of a mixed use development including 3 residential blocks and all site development works at Liberty Market (No. 71) on the eastern side of Meath Street, in The Liberties, Dublin 8.
- 1.2. Subsequent to the Local Authority issuing a Notification of Decision to Grant Permission on 14th April 2022 in respect of the proposed development, a new City Development Plan (CDP) came into operation. My original report recommended permission be refused on the grounds that the proposed development was not compliant the new CDP's Housing Strategy and Housing Need and Demand Assessment, which requires that developments of the nature proposed contain a minimum of 15% three or more-bedroom units and a maximum of 25%-30% one-bedroom / studio units. The proposed development contains an excessive proportion of studio and one-bedroom units (at least 61%) and a deficit of three or more-bedroom units. Furthermore, I considered that the proposal was not consistent with Section 15.9.3 (Dual Aspect) of the Development Plan, which requires for a minimum of 33% units to be dual aspect in more central and accessible urban locations. The standard of accommodation was highlighted as a new issue to the Board.
- 1.3. At a meeting held on the 13th October 2023 the Board decided to defer consideration of the case and to issue a Section 137 notice to all parties regarding the following:

Having regard to the adoption of the City Development Plan 2022-2028 since the decision of the planning authority and the lodgement of the appeal, the Board notes that unit mix requirements (for schemes of 15 units or more) are set out at Table 37 of Appendix 1 (Housing Strategy and Housing Need Demand Assessment) and Section 15.9.1 as follows:

- *A minimum of 15% three or more bedroom units*
- *A maximum of 25%-30% one bedroom/studio apartments.*

These unit mix requirements apply to the Liberties area, within which the subject site is located.

The Board considers that these objectives of the current Development Plan are reasonable. In addition, on an assessment of the documentation submitted with the application and appeal, the Board considers that a reconfiguration of the floorspace within the proposed development (for example the reconfiguration of units in Block C to provide one 2 bedroom unit and one 3 bedroom unit on the first and second floors, and one 1 bedroom unit and one 2 bedroom unit on the third floor or a variant of this) might comprise one design modification option which would facilitate an overall scheme which might therefore be considered by the Board in making a decision on this appeal. Equally there might be consideration as to whether the current proposed development or other potential changes would provide consistency with the provisions of the current Development Plan.

- 1.4. A Section 137 notice was issued to the relevant parties on 14th and 24th November 2023. The First-party Response was received on 11th December 2023. This Response was circulated to the relevant parties for comment on 8th January 2024. St. Catherine's Street Residents submitted their comments on 16th January 2024. At a Board meeting held on the 5th of March 2024 the Board requested that an Addendum Report be prepared with respect to the above.

2.0 First-Party Response

- 2.1. The Applicant submitted a Response to the Board on 11th December 2023. The key points can be summarised as follows:
- Argue that the originally proposed 18 No. unit scheme should be granted due to the housing crisis.
 - Request that the scheme granted by the Local Authority (17 No. units) is upheld.
 - The HNDA is based on the 2016 Census which is outdated and informed Table 37 of Appendix 1 of the CDP. It should be disregarded based on the renewal and mixed use nature of the project.
 - Contends that the 15 No. unit cut off is arbitrary.
 - The following amendments are proposed:

1. Amalgamate and reconfigure Units C01 (1 bedroom) and C03 (2 bedroom – 4 persons) into a larger single 3 bed unit (6 persons) (new unit C01 with a total floor area of 132.12 sqm) with no changes to C02. C01 includes a home office.
 2. Amalgamate and reconfigure Unit C04 (1 bed) and C06 (2 bed – 3 person) into a larger single 3 bed unit (6 persons) (new unit C04 with a total floor area of 122.30 sqm) with no changes to C05.
 3. Amalgamate and reconfigure Unit C07 (studio) and C09 (1 bed) into a larger single 2 bed unit (4 persons) (new unit C07 with a total floor area of 93.74 sqm) with no changes to C08.
- There are no elevational alterations as a result of these amendments.
 - The revised units are compliant with the Apartment Guidelines and CDP's room standards.
 - No changes are proposed to Block A at any level.
 - The proposed amendments will result in a 14 unit scheme and is compliant with CDP's Table 37 of Appendix 1.
 - Only 50% of the units would be studio or one bed units.
 - The revised proposal will provide for a greater mix of dwelling types and sizes with capacity to cater for future household needs in the area.

3.0 St. Catherine's Street Residents' Comments

3.1. The St. Catherine's Street Residents submitted comments in respect of the First-party Response to the Board on 16th January 2024. The key points can be summarised as follows:

- The proposed development will damage neighbouring structures.
- Queries whether the proposed development provides for 5% community and culture facilities.
- SPPR 1 and Table 37 of Appendix 1 are applicable in this case.
- Proposal is non-compliant with Policy QHSN38.

- The proposal is out of line with other developments in the area.
- Lack of public consultation.
- If granted permission, the scheme with the reduced number of units should proceed.
- The proposal is not targeted at families.
- Reference to the 2016 Census is outdated.
- Queries what traffic restrictions will be in place in the residential area.

4.0 **Assessment**

4.1. Table 37 included as part of Appendix 1 in the CDP outlines the mix of residential units, minimum and maximum requirements. As outlined in my original report, the CDP requires that any application for 15+ residential units must have the following unit mix:

- A minimum of 15% three or more bedroom units.
- A maximum of 25%-30% one bedroom / studio units

Table 37: Mix of Residential Units, Minimum and Maximum Requirements

Sub-City Residential Mix	
Geographic Area: (Figure 4)	<ul style="list-style-type: none"> NIC Sub-City Area. Liberties Sub-City Area.
Thresholds:	<ul style="list-style-type: none"> Applies to proposals of 15 units for more.
Each multi-unit residential development shall contain:	<ul style="list-style-type: none"> A minimum of 15% three or more bedroom units. A maximum of 25%-30% one bedroom/studio units.
Exemptions:	<ul style="list-style-type: none"> Council Part 8 or Part 10 residential schemes may propose a different mix having regard to the specific needs of the Housing & Community Services Department. Standards may be relaxed for other social housing needs and/or where there is a verified need for a particular form of housing, e.g. for older people, subject to the adjudication of the Housing & Community Services Department. In accordance with Specific Planning Policy Requirement 2, all building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha, where up to 9 residential units are proposed, notwithstanding SPPR 1, there shall be no restriction on dwelling mix, provided no more than 50% of the development (i.e. up to 4 units) comprises studio-type units. For clarity, in accordance with SPPR 8, the unit mix requirement does not apply to units that are designed to a BTR standard. It is noted in the guidelines that all standards set out shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development.

Notes:

1. SPPR1 is applicable to the remainder of the Dublin City Council administrative area.
2. Subject to variation, the mix may be altered and/or a further residential mix requirement may be applied to other areas of the city where an evidential need has been identified by Dublin City Council.

- 4.2. The original development includes 18 No. residential apartments comprising three studios, eight 1-beds, four 2-beds (3 persons), two 2-beds (4 persons), and one 3-bed. As such the scheme, comprising 61% one beds and studios, exceeds the requirements of SPPR 1 and Table 37.

4.3. As outlined above, the Applicant has provided an amendment scheme which provides for a total of 14 No. apartments comprising:

- Two studio units
- Five 1-bed units
- Four 2-bed units, and
- Three 3-bed units.

4.4. As such, the revised scheme comprises 50% one beds and studios, 29% 2-bed units and 21% 3-bed units. Whilst this unit mix is not consistent with Table 37, as the total number of units is below 15 No., the thresholds do not comply. As highlighted by the Applicant the unit mix is compliant with SPPR1 with respect to the number of studio/1bed units. Having regard to the overall standard of accommodation to be provided, the site size and location in the city centre, I consider the proposal in this instance to be acceptable. Whilst the number of units has been reduced it will provide for a greater varied of unit types and as such would be consistent with Policy QHSN38 in this regard. Furthermore, as noted in the schedule of accommodation submitted with the Response, the units are compliant with the Apartment Guideline's minimum overall floor areas, room sizes, ceiling height, lifts and staircores, and storage areas requirements. Whilst the scheme is not fully compliant with SPPR 4 in terms of dual aspect units (minimum 33% required/ 21% provided), having regard to the overall standard of accommodation, proposed density and site configuration, I consider this to be acceptable in this instance. The proposed amendments do not result in any elevational alterations or changes to the massing and scale of the proposed development. As outlined in my original report, I consider the massing and scale to be appropriate having regard to the site's city centre location.

4.5. **Other Matters**

The St. Catherine's Street Residents submissions reiterates many of the concerns expressed in the original submission to the Board a number of which relate to impacts on residential amenity. I have addressed these matters in my original report. In terms of the proposed development's compliance with Table 37, my assessment is outlined above in this regard. With respect to the comments regarding potential damage to neighbouring properties, I do not consider that any evidence of same has been submitted that would substantiate permission being refused for the proposal. Subject

to the development being carried out in accordance with standard best construction techniques which will be outlined in the final CEMP, I do not consider that the proposed development presents a risk to neighbouring properties. The Residents make reference to a requirement for the development to provide 5% community/arts and culture spaces. Objective CUO25 (SDRAs and large Scale Developments) states that all new regeneration areas (SDRAs) and large scale developments above 10,000 sq. m. in total area* must provide at a minimum for 5% community, arts and culture spaces including exhibition, performance, and artist workspaces predominantly internal floorspace as part of their development at the design stage. Whilst the subject site is located in a SDRA, having regard to the scale of the proposed development (total floor area 2,294 sq m), I do not consider this Objective applicable to the proposal.

- 4.5.1. Separately, I highlight that the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) were published subsequent to the completion of my original report in respect of this case. The Guidelines set national planning policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. The density ranges support the application of densities that respond to settlement size and to different place contexts, recognising in particular the differences between cities, large and medium sized towns and smaller towns and villages. The development standards for housing will allow for greater flexibility and innovation and support the delivery of a greater range of housing options. Table 3.1 states that residential densities in the range 100 dph to 300 dph (net) shall generally be applied in the centres of Dublin and Cork. Section 12 of the Planning Application Form states that the net residential floor area is 1554 sq m (0.1554 ha). As such, the 14 No. unit scheme would have a net density of 90 No. units per hectare, which is marginally below the Guidelines' standard. Having regard to the proximity of residential development in the vicinity of the site, I consider the proposed density to be acceptable.

5.0 Recommendation

Following the assessments above, I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below

6.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the site's city centre location, the proximity to a wide range of public transport options, the provisions of the Dublin City Council Development Plan 2022-2028, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, and the National Planning Framework, which seeks for compact development of brownfield sites, the pattern and character of development in the area and the design and scale of the proposed development and site's existing land uses, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this city centre location, would not seriously injure the residential or visual amenity of the area, would be acceptable in terms of urban design, height and quantum of development and would not conflict with neighbouring land uses. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

7.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to An Bord Pleanála on 11th December 2023 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The total number of residential units permitted is 14 No. as per the plans and particulars submitted to the Board on 11th December 2023.</p> <p>Reason: In the interest of clarity.</p>

3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and unit numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new development.</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann.</p> <p>Reason: In the interest of public health.</p>
7.	<p>No additional development shall take place above roof-parapet level, including lift motor enclosures, air-handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the visual amenities of the area.</p>
8.	<p>All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the</p>

	<p>provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
9.	<p>No signage, advertising structures/advertisements, security shutters or other projecting elements, including flagpoles, shall be erected on the building or within the site unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the visual amenities of the area.</p>
10.	<p>A plan containing details for the management of waste, in particular recyclable materials, within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate waste storage.</p>
11.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
12.	<p>The site development and construction works shall be carried out in such a manner so as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.</p> <p>Reason: To ensure that the adjoining roadways are kept in a clean and safe conditions during construction works in the interest of orderly development.</p>
13.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to</p>

	<p>commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
14.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
15.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
16.	<p>Noise Levels a) During the construction and demolition phases, the proposed development shall comply with British Standard 5228 'Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control.' b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for</p>

	<p>complaint as provided for in B.S. 4142. Method for rating industrial noise affecting mixed residential and industrial areas.</p> <p>Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.</p>
17.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues: (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
18.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in</p>

	<p>connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination. Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
19.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities, and in lieu of the public open space requirement, benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Susan Clarke
Senior Planning Inspector

19th February 2024