



An
Bord
Pleanála

Inspector's Addendum Report

ABP-315292-22

Development	Demolition of buildings, construction of office buildings and all associated site works. Natura Impact Statement (NIS) submitted with application.
Location	Site of Canal House and Construction House, Canal Road, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4027/22
Applicant(s)	Rimor Fortis Limited
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Manus McClafferty Joseph Kearney
Observer(s)	None
Date of Site Inspection	25 March 2024
Inspector	Gillian Kane

1.0 Background

- 1.1.1. This addendum report is to be read in conjunction with the previous Inspectors report, dated 31 March 2024 and the Board Direction BD-016009-24 dated 08/04/2024.

2.0 Board Direction

- 2.1.1. Following a Board meeting of 08/04/2024, the Board deferred consideration of the case and issued a section 132 notice to the applicant as follows:
- 2.1.2. “The Board noted the requirements of section 15.4.3 Sustainability and Climate action, 3.5.2 The Built Environment and 15.7.1 Reuse of Existing Buildings of the Dublin City Council Development plan 2022-2028. The Board requires that additional information is provided to justify the wholesale demolition of all structures and additional consideration of the relevant policy objectives of the Dublin City Council development plan 2022-2028 and the Climate Action Statement 2023. Additionally, CA10 requires that a Climate Action Energy Statement is provided as part of the overall Design Statement”.
- 2.1.3. The applicant was given until the 29th May to respond. All parties to the appeal were advised of the Direction.

3.0 Applicants Submission

- 3.1.1. On the 29th May 2024, the applicant responded to the S132 request, with the following:

Adaptability Assessment

- 3.2. The Adaptability Assessment submitted by the Applicant states that the report considers if the existing asset can be refurbished, kept to function as a modern work environment or requires demolition to allow for a new development on site.
- 3.2.1. The report details the condition of the existing buildings, noting that both Canal House and Construction House are at the end of their serviceable life span, would not meet current fire safety legislation and are architecturally dated. According to the report the properties on Dunville Terrace are unsafe to enter, with the exception of the café at the end of the terrace. 2-6 Dunville Terrace are on the derelict sites register. In terms of the carbon risk, section 4.2 of the report states that the existing buildings are ‘stranded’, i.e. that the energy demand has exceeded the national

decarbonisation pathway. The conclusion of this section of the report is that four options should be looked at: retrofitting the existing buildings, repurposing the existing buildings, selling them, or redeveloping the site which involves demolition of the existing structures.

- 3.2.2. In terms of complying with the Energy Performance of Buildings Directive, section 4.3 of the applicants report states that the existing buildings do not comply and that the buildings have a BER of C2 which is likely to be re-framed as a BER of D. From 1 Jan 2030, buildings with a BER of D will not be permitted to be made available for rent or used as a commercial premises. To achieve compliance, the buildings would need to be stripped back to their shell and subsequently a deep retrofit. Section 4.4 of the report provides details from a real estate company, stating that leasing / renting options for the existing buildings as is, are limited.
- 3.2.3. Section 5.0 of the applicants report refers to Retrofitting. The Adaptive Reuse Potential (ARP) model is used against the existing buildings, with an effective useful life of 47.37 years being the end result. The report states that this is essentially a remaining useful life of 6.37 years. The next step according to the report is looking at reuse or re-purposing of the buildings, using the AdaptSTAR method. Section 5.2 of the report, outlines the use of seven design criteria and seven categories to calculate a buildings adaptive reuse rating. Beyond the actual physical structures, the categories assessed include economic, functional, technological, social, legal and political. Star ratings go from unranked (less than 25 points) to 5-stars (85-100 points). Table 5 provides a total index of 47.07 (two stars) but does not indicate how the values were arrived at, which buildings they refer to, nor how those ratings were arrived at.
- 3.2.4. Adaptability of the buildings on Dunville Terrace was not considered due to their dilapidation (section 5.3 of the applicants report). This section of the report refers to how important building adaptability to changing needs in to the design is, notwithstanding that it brings a high degree of uncertainty. Table 6 of the report provides details of how the two main buildings on site score, with details of the scoring system and a final total weighted score. The final scoring matrix provides a score of 28.5 out of 103.5 for adaptability, with the conclusion that the preferred resolution is to demolish and replace with new.

- 3.2.5. Section 5.4 of the report provides a justification for the demolition of the structures on site, as required by section 15.7.1 of the 2022-2028 Dublin City Council Development Plan. In terms of quality and condition, the report notes that recent usage leads the report to conclude that there has not been significant spending on maintenance, which further negatively affects the remaining lifespan of the buildings. Further, heat loss and energy conservation were not a consideration in the original design. The pre-cast concrete frame elements of the buildings are not inherently reusable, with windows doors and roofing systems falling below contemporary standards. There is no potential to incorporate the materials into the current development proposal. The report analyses the architectural and urban design of Canal House and Construction House, concluding that the response is block objects located for convenience on site, with little to no engagement with their surroundings. The buildings on Dunville Terrace are stated to have limited architectural or historical significance. The report states that the buildings do not comply with Part L Energy Efficiency and that it would be almost impossible to achieve insulation levels similar to a new build and even more difficult to achieve comparable air tightness levels.
- 3.2.6. The report states that, from a structural perspective “it is not feasible to remodel or extend the current buildings to accommodate the proposed development without significant intervention works”, given that full site basement car parking is required and the additional height of the proposed development. The report states that demolition and rebuild is the most suitable and carbon efficient method of providing the required commercial density on the site.
- 3.2.7. The commercial sustainability section of the report refers to section 16.21 of the 2016-22 Development Plan, stating that it was in force at the time the development was proposed. In that scenario, reuse was discounted due to a number of considerations: buildings no longer providing modern working environment, too-low floor to ceiling heights in terms of servicing but also daylight penetration, lack of compliance with building regulations, out-dated services and insulation and Fire Safety aspects. The conclusion of this section of the report is that the proposed development complies with policy CEE21, sections 6.5.6 and 16.5.6 of the 2022-28 Development Plan, that the existing buildings are not fit for purpose and have little commercial value and that major re-modelling would be too difficult, would have no benefit or is not feasible.

- 3.2.8. Section 6.0 of the report addresses the proposed development. It states that the proposed building “will have one of the best-in-class operational energy”... [sic]. Section 6.2 provides details of the reduce, reuse and recycle policy for the proposed development. these are categorised under the waste framework directive, sustainability targets and sustainability measures.
- 3.2.9. Section 7.0 of the report refers to an ‘embodied carbon and energy audit’. This states that a whole life cycle approach was taken to evaluate both the embodied and operational carbon under three scenarios: existing, retrofitted and new development. Two figures are presented: carbon intensity over a 50 year period per square metre for each of the three scenarios and carbon intensity over a 50 year period per expected occupancy. The figures show that the new development is significantly lower for operational carbon in all three scenarios, according to the conclusion of this section of the report. The conclusion states that the value of embodied energy contained in the elements of the existing building shells that would remain would be outweighed by the long-term energy savings that would result over the lifespan of new buildings. The conclusion states (in bold) that “retrofitting would provide no benefit, in terms of carbon, and it would be better over the long term to create a newer energy efficient building”.
- 3.2.10. The penultimate section of the report provides an overview of the existing and proposed buildings, scope of retrofitting limitations, economic feasibility and the long-term sustainability and adaptability. The conclusion is that proceeding with demolition and new construction is not only justified but imperative. Section 8.0 of the report provides conclusions and commitments.

Climate Action and Energy Statement

- 3.2.11. The climate action and energy statement submitted by the Applicant, provides the following details for the proposed development: Buildings Regulations and BER, how the development will comply with Net Zero Carbon 2030, energy efficiency and sustainability proposals and appendices.
- 3.2.12. The applicants submission was circulated to parties who were given until the 20th June to respond. All submissions are addressed in section 4.0 below.

3.3. Third Party Response

3.3.1. On the 20th June 2024, the Appellant Joseph Kearney responded to the Applicants submission, as follows:

Part I

- Applicants response is highly restricted in assessment materials, leading to unsupported statements, omissions of relevant information and basis errors of locational assessment.
- The applicants submission fails to address examples of the reuse / retrofitting of existing commercial examples provided by the appellant.
- No evidence that the applicant has considered any of the points raised by the third parties.
- No reference to the site planning history. The Board's request was to elicit a systematic assessment of the sustainability options for the existing structures. The proposed development should have been tested against an alternative approach such as that granted permission under 2418/08. This omission leads to an unbalanced and negative assessment.
- The premise of the applicants submission is based on the addition of 11,000sq.m. which is excessive, does not consider more responsible density and is overtly optimistic about commercial occupancy.
- Other uses for the existing complex were not considered. The mixed-use 2008 proposal was deeply flawed but was not mono-commercial. In a housing crisis, exclusive commercial should not subordinate other assessment criteria.
- The utilisation of the site by the applicant is sub-optimal for the neighbouring residential areas.
- The only options considered are what the applicant intended to do already and do-nothing. This is counter to policy CA6 of the development plan which requires that all other options are considered first.
- The current zoning is at odds with the cultural and heritage potential of the surviving C19th structures.

- The adaptability assessment fails to distinguish between Canal House & Construction House and Canal Road Cottage & Dunville Terrace. The reuse potential of these buildings was not considered.
- The AdaptSTAR method makes no distinction between the modern commercial buildings and the older retained terrace, rendering the exercise meaningless and unreliable.
- The scoring matrix under section 5.3 excludes Dunville Terrace, notwithstanding that the report specifically notes that the aspects differ depending on commercial versus residential use. Applying assessment criteria without making meaningful distinctions, for convenience is not acceptable. This runs contrary to the Boards request to demonstrate “all options other than demolition” are not possible.
- The reports suggest that the proposed development will be a catalyst for the re-development of adjacent site – ignoring that they are long established residential areas. Excluding any residential development from the site is not holistic urban renewal.
- It is submitted that the applicants consultant has an unclear understanding of the sites characteristics.
- No examples of or comparisons with real- world buildings of ‘best-in-class operational energy ratings’, or recently refurbished commercial buildings are given. The appellant submission provided several examples of prominent retrofitted / refurbished office buildings from the 1960’s 1970’s. The details include energy rating, floor to ceiling heights and occupancy.
- The applicants response does not provide a threshold for non-sustainable occupancy rates. The applicants assessment hangs its thesis on a use case / occupancy rate but does not provide non-sustainable occupancy scenarios, real-world comparisons, cases studies on commercial occupancy rates or an assessment of post-pandemic occupancy trends.
- Optimal operational performance is assumed in the report, but this is based on an expected occupancy level for which no market case or analysis has been supplied. It is submitted that the proposed development will fail its sustainability and carbon intensity assessment targets and that the retro-fitted scenario may

prove more competitive. It is suggested that 'expected occupancy' is wishful thinking.

- There is no assessment of recent, current or projected market conditions and trends such as hot-desking, remote working etc.
- The appellant wishes to see the site developed imaginatively, sustainably and reusing existing structures on site.

Part II

- Historical significance of C19th cottage on site has been overlooked. Formal protection and preservation of structure and by extension Dunville Terrace should be considered by Board.
- The reuse of the structure in accordance with the sustainability and climate action section of the development plan (15.4.3) has not been considered. Demolition as a first option has not adequately considered conservation.
- 'All options other than demolition' as per section 15.7.1 of the development plan were not considered for the cottage or Dunville Terrace. Reuse as residential was not considered. Notwithstanding that the applicants consultant notes the recent renovation and reasonable condition of the café. Chapter 11 of the development plan recognises that the greenest building is one that is already built.
- The dismissal of the Cottage and Dunville Terrace is a systematic failure. The loss of the conservation significance of the cottage is acknowledged in the applicants architectural heritage impact assessment.
- The fundamental lack of curiosity about the cottage stems from the 2008 historic building assessment which misunderstood the date of construction.
- This led to the Planning Authority failing to consider the heritage significance of the Canal Road Cottage, not even seeking the insight of the Conservation Officer.
- The Planning Authority's summary dismissal of Dunville Terrace has been applied to its older neighbour.
- The Planning Authority should have considered section 11.1.54, 11.1.5.6, 11.1.5.7, 11.1.5.15 and 11.1.5.16 of the Development Plan, all of which seek to protect and preserve architectural conservation areas, heritage buildings and industrial heritage.

- The Planning Authority failed to consider what the original role of the Cottage was. Appellants research shows it was built between 1819-1821. Principal guiding context for the cottage was Grand Canal, its locks, bridges and associated structures. So, the Cottage is not “out of context” as repeatedly suggested by the Applicant.
- The Cottage is more modest than other NIAH identified cottages, but retains many features comparable to the 4th lock cottage at Inchicore and Britain Quay. The subject cottage has not been identified by the NIAH as being a canal keepers cottage. There is no legitimate reason the subject cottage – one of only two within the historic core - should not be recorded as a lock keepers cottage.
- It is submitted that the AHIA for the 2008 application erred when it stated that the cottage first appeared on the 1864 Ordnance Survey. A cottage is indicated on the 1819 map of Dublin, the 1821 Map of Dublin, the 1825 and 1835 Maps of Dublin. (Copies / images of maps submitted).
- It is submitted that evidence exists that the subject cottage was part of a contemporary lock keepers cottage building programme along the Grand Canals final stretch to the city and the Liffey.
- Policy CHC14 refers to the protection of canal-side (including lock keepers dwellings) heritage. Policy BHA6 states that there will be a presumption against the demolition or substantial loss of any building or other structure which appears on historic maps up to 1847.
- The previous AHIA's and the conservation assessments are inadequate, partial and misleading. They cannot serve as a basis for assessment of heritage significance.
- The Britain Quay Lock Keepers (a Protected Structure, RPS no. 986) is similar to the subject cottage was restored and brought back to use. The arguments that led to the listing, preservation and restoration / reconstruction of the Britain Quay cottage apply equally to the subject cottage.
- Dunville Terrace took on the form it did because of the cottage beside it.
- Details provided of the Valuations Office records for the Canal Bank / Canal road Lock Keepers House. Copies of images submitted.

- It is submitted that the subject cottage was built, leased and function as a Lock Keepers Cottage, likely dates from 1819-1822. Belongs to a family of similar Lock Keepers Cottages, only one of two that survive within the modern city centre. Policies BHA9, BHA10, BHA11, BHA12 and BHA17 seek to preserve and protect such structures.
- It is recommended that permission be refused for the development on the grounds of unacceptable loss of historic structures, that the Board consider calling an Oral Hearing, that the cottage be added to the RPS, that the NIAH be advised and consulted, that an appropriate use for the cottage be found, that the site be reviewed for rezoning, that the Grubb Observatory be memorialised, that the Planning Authority review its assessment procedures and that the Conservation section be involved consistently.
- Images, typologies and details of Canal Lock Keepers Houses and Cottages in Ireland submitted.

3.4. **Planning Authority Response**

3.4.1. None on file.

4.0 **Assessment**

4.1.1. As noted above, the applicant was requested to provide a Climate Action Energy Statement, to provide information justifying the proposed demolition of structures on site and additional consideration if the relevant policy considerations of the 2022-2028 Dublin City Development Plan. This assessment is restricted to the Board Direction and those submissions relating to matters raised in the Direction.

4.2. **Climate Action Statement**

4.2.1. With regard to the requested Climate Action Energy Statement, policy CA10 of the 2022 Development Plan requires that development with over 1,000sq.m. of commercial floor space to submit a statement, as part of the overall Design Statement to demonstrate how low carbon energy and heating solutions, have been considered as part of the overall design and planning of the proposed development. Chapter 3 and section 15.7 of the Development Plan states that the statement shall also provide outline information relating to the anticipated energy performance and CO2 emissions associated with the development as well as information outlining how

the potential of district heating and other low carbon energy solutions have been considered in relation to the development.

4.2.2. Section 15.7 of the plan states that the statement shall address:

- the technical, environmental and economic feasibility of on-site renewable energy generation including solar PV and small scale wind power;
- the technical, environmental and economic feasibility of at a minimum, the following high-efficiency alternative energy supply and heating systems: o decentralised energy supply systems based on energy from renewable and waste heat sources;
- co-generation (combined heat and power);
- district or block heating or cooling, particularly where it is based entirely or partially on energy from renewable and waste heat sources;
- heat pumps;
- include an assessment of embodied energy impacts.

4.2.3. In terms of the feasibility of on-site renewable energy generation, the Applicants Statement provides details of the proposed elemental U-Values of the walls, floors, roof, window, curtain / spandrel panels and windows. Generic detail of air permeability, low carbon & renewable energy solutions are provided with the concluding statement that “technical feasibility studies were conducted” but no information of the studies is provided. Section 4.2.1 states that a CHP plant will not be proposed as it may lead to a net increase in carbon emissions over the lifetime. An air source heat pump will be proposed, with external condensers at ground level (section 4.2.2). Details of why bio-mass and solar water heating will not be included are provided in section 4.2.3. and 4.2.4. A PV solar array of 40kw will be included. Wind turbines are not feasible due to the urban location of the site and there are no district heating and waste heat opportunities. Rainwater collection will be used for WCs but grey water recycling will not be, due to risks in terms of water borne contaminants. Section 4.4 of the statement provides details of the proposed water supply and water conservation plan and Section 5 provides details of the energy performance criteria, carbon performance criteria, renewable energy ratio requirements and BER achieved for each of the two buildings proposed. The results show that both buildings are compliant for each of the criteria.

4.2.4. I note that the Statement does not address the CO2 emissions for the proposed development. This is not significant as it is comprehensively addressed in the Applicants Adaptability Assessment. I am satisfied that the Applicants response satisfactorily complies with policy CA10 of the Development Plan.

4.3. **Demolition**

4.3.1. The Boards Direction requested the Applicant to justify the whole scale demolition of all structures on site, whilst also considering the relevant policy objectives of the City Development Plan and the Climate Action Statement of 2023. The Board will note that the Climate Action Plan 2024 was approved by Government on the 21st May 2024, after the signing of the Boards Direction. Climate Action Plan 2024 builds upon CAP23 by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings. The Plan provides a roadmap for taking decisive action to halve Ireland's emissions by 2030 and reach net zero by no later than 2050, as committed to in the Climate Action and Low Carbon Development (Amendment) Act 2021.

4.3.2. The applicants Adaptability Assessment and Climate Energy Efficiency Assessment provide comprehensive detail on how the proposed building will support high levels of energy conservation, energy efficiency and the use of renewable energy sources in existing buildings (policy CA7), that embodied carbon in the proposed buildings will be lower than the existing structures on site (policy CA8) and that climate adaptations were designed into the proposal (CA9). Very little detail is provided with regard to the disposal or re-use of demolition and construction waste – with the exception of the statement that the 1980's pre-fabrication construction is unsuitable for reuse. Should the Board accept the proposed demolition of Canal House and Construction House as acceptable, this could be addressed by way of condition.

4.3.3. The Appellant submits that demolition of structures on site was the Applicants first option, that a redevelopment of the entire site was the primary consideration and that the demolition of structures on site was designed to 'fit-into' that design, rather than a consideration of other uses for the site. As noted in section 8.2 of the previous Inspectors Report, the site is zoned to provide for the creation and protection of enterprise and facilitate opportunities for employment creation. The policy objectives for the site cannot be revisited as part of this addendum report. The proposed

development of entirely office development is in keeping with the zoning objective of the current development plan.

- 4.3.4. The appellant submits that the Adaptability Assessment is based on occupancy rates that are not supported by evidence, and therefore the operational carbon intensity (figure 9) is not robust. The Board will note that Figure 8 (page 36) is based on carbon intensity over a 50 year period, per sq.m. The conclusion of the Assessment is not based on one single metric.
- 4.3.5. I note the Appellants submission that historic significance of the Cottage has not been adequately or satisfactorily addressed. He submits that there are three sets of buildings on the subject site – the 1980's Canal and Construction House, Dunville Terrace and the Canal Cottage / Lock Keepers Cottage. The appellant submits that the applicants case for demolition as submitted in response to the Board Direction, fails to distinguish between the three different sets of buildings on site and that therefore the conclusion of 'demolish all and rebuild all' does not stand up to scrutiny. The appellants submission states that the assessments carried out by the applicant relate to and refer to *only* the main structures on site and do not consider the cottage as a distinct standalone structure. The appellant submits that insufficient consideration was given to the heritage of the cottage and therefore the 'justification' for demolition of *all* structures on site has not been made.
- 4.3.6. I concur with this submission. I consider that insufficient distinction has been made between all the structures on site when assessing the structural quality and condition. There are many examples of treating all buildings on site as 'one' or omitting the Dunville Terrace and / or cottage structures from the assessments. For example, section 4.1 referring to the condition of the existing buildings highlights issues for Canal and Construction House, whilst noting that the Cottage is in reasonable condition having been recently renovated. The conclusion reached is that the structures on Dunville Terrace should be demolished, with no reasoning given for demolishing a building assessed as being 'in reasonable condition'. The stranding of asset / carbon risk (section 4.2) refers only to Canal House and Construction House. As does section 4.3 when assessing energy performance. Section 4.4 refers to the poor desirability of the buildings for rental, ignoring that the subject Cottage is in active use. Table 6 which analyses the adaptability of buildings appears only to have been carried out on the commercial structures on site.

- 4.3.7. Section 5.4 of the Applicants Adaptability Assessment refers only to the main structures on site, with no information given about the structural details of the Cottage. The report refers to lack of spending on maintenance of the two main buildings, the design of the main buildings, the structural features of the main buildings and the re-use of materials. The report analyses the architectural and urban design of Canal House and Construction House only. The buildings on Dunville Terrace are stated to have limited architectural or historical significance. Further detail is provided in the section titled "Dunville Terrace and adjacent café building" (page 26) in terms of the structural survey carried out on the structures. The 'structural' section of the report (page 28) starts from the point of fitting the proposed development into the site rather than the other way around.
- 4.3.8. I am not satisfied that sufficient consideration has been given to the fact that the Cottage on Dunville Terrace is not the same as the two main structures on site and as such warranted a bespoke assessment of its suitability for re-use, retro-fitting or refurbishment before reaching the conclusion that demolition was the appropriate response.
- 4.3.9. The appellants submission expands on the appeal wherein the architectural significance of the cottage and its distinction from the other structures on Dunville Terrace was raised as a concern. I am satisfied that while additional information regarding the heritage significance of the cottage has been submitted at this stage in the appeal, it is not a new issue and it is not material. The Board may wish to circulate this and allow the appellant to comment on the submission. It is my opinion however, that while the applicant did not address this distinction in their response to the Boards Direction, the issue has been addressed by the Applicant in the original submission. I further note that in requesting Further Information in October 2022, the Planning Authority drew the applicants attention to the insufficient information submitted regarding the proposed demolition of structures on Dunville Terrace. Further, the appellant raised the 'standalone' nature of the cottage as a ground of appeal – drawing attention to the conclusion of the Applicants AHIA that the cottage was in reasonable condition and that its demolition was a "loss of conservation significance on the site".
- 4.3.10. I note that I raised this as a concern in section 8.7.4 of the previous Inspectors report. I restate that concern in this addendum report. I am not satisfied that a justification for the demolition of *all* structures on site has been presented. The

cottage on Dunville Terrace has not been adequately and comprehensively assessed as suitable for re-use and / or reconstruction first, before demolition is accepted as the last option, as is required by the Development Plan.

4.4. **Summary**

- 4.4.1. I am satisfied that a Climate Action Energy Statement has been provided in accordance with Policy CA10 of the Dublin City Development Plan 2022-2028 as required by the Boards Direction BD-016009-24. With regard to the other elements of that Direction, I am not satisfied that a justification for the wholesale demolition of *all* structures on site has been presented and therefore I consider that not all elements of the Boards Direction have been addressed satisfactorily.

Gillian Kane

Senior Planning Inspector

09 August 2024