



An
Bord
Pleanála

Inspector's Report ABP-316134-23 (Addendum Report to ABP-304604-19)

Development	Proposed amendments to the North Lotts and Grand Canal Dock SDZ Planning Scheme in relation to building heights.
Location	North Lotts and Grand Canal Dock, Dublin
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	n/a
Applicant(s)	Dublin City Council
Type of Application	Amendment of SDZ Planning Scheme
Planning Authority Decision	n/a
Date of Site Inspection	4 th July 2023
Inspector	Hugh D. Morrison

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1.0 Introduction

- 1.1. The Board's decision to refuse the proposed amendments to the North Lotts and Grand Canal Dock Planning Scheme in relation to height was quashed by order of the High Court on 24th January 2022. This order instructed that the application be remitted back to the Board for assessment/determination with this process re-commencing at the point in time immediately before the Board's direction of 16th March 2021.
- 1.2. Due to the lapse in time since 16th March 2021, the Board decided on 11th May 2023 to invite the applicant, Dublin City Council (DCC), to advise it, on an administrative basis, of any change in circumstances, which in DCC's opinion, may affect the Board's current consideration of the application. DCC submitted a schedule on 20th June 2023, which provides an update on planning and construction matters in those city blocks within the North Lotts and Grand Canal Dock Strategic Development Zone (SDZ) that would be affected by proposed amendments to the Planning Scheme, i.e., City Blocks Nos. 2, 3, 7, 9, 11, 18 & 19.
- 1.3. The Board decided on 29th June 2023 to refer the reactivated case to the reporting inspector for an addendum to the report dated 10th March 2020, which is to take account of the current context of the application and DCC's aforementioned submission.

2.0 Planning Authority's update

- 2.1. Under Chapter 4 of DCC's document entitled "Review of Building Height & Proposed Amendments to North Lotts and Grand Canal Dock Planning Scheme 2014", dated May 2019, proposed amendments to City Blocks Nos. 2, 3, 7, 9, 11, 18 & 19 are set out. DCC has submitted an update on each of these Blocks, which I will summarise and amplify upon below in conjunction with citing relevant page numbers from Chapter 4 of the aforementioned document:

City Block 2 (Pages 59 & 60)

- Sub-blocks A & C: No construction to date. On Pages 182 & 183 of the Planning Scheme, these sub-blocks are discussed in relation to the need to reserve a strip of land for the future provision of a DART Underground Station.

Accordingly, “No permanent structures shall be built over this (strip) until the position of the DART Underground Station has been confirmed.” The current Railway Order, which has been submitted to the Board for the DART + West Project, proposes that a DART Underground Station be located in these sub-blocks.

- Sub-blocks B & D: Built out.

City Block 3 (Pages 60 & 61)

- Sub-blocks A, B & D: Built out.
- Sub-blocks E & F: Buildings almost complete.

City Block 7 (Pages 61 & 62)

- Sub-blocks B & D: Built out.
- Sub-block C: No significant development: Under temporary planning permission (DSDZ 2146/19), site in use as car rental facility.

City Block 9 (Pages 62 & 63)

- Sub-blocks A, B, C & D: Ground/sub-surface works occurring. The recent planning history of City Block 9 is as follows:
 - Sub-blocks A & C: 10-year permission (DSDZ 3779/17) for 2 no. residential buildings ranging in height from 6 – 11 storeys.
 - Sub-blocks B & D: 10-year permission (DSDZ 3780/17) for 4 no. commercial buildings ranging in height from 6 – 8 storeys.
 - Sub-blocks A, B, C & D: Permission (DSDZ 3042/19) for amalgamation of basements approved under DSDZ 3779/17 & 3780/17.
 - Sub-blocks A (part), B & D (part): Refusal of strategic housing development (SHD) application (ABP-309316-21) for 3 no. residential buildings ranging in height from 8 – 45 storeys.
 - Sub-blocks A (part), C & D (part): 10-year permission (DSDZ 2103/21) for 3 no. commercial buildings ranging in height from 5 – 9 storeys and 3 basement levels, subsequently amended by permission (DSDZ 5296/22).

City Block 11 (Pages 63 & 64)

- Sub-blocks A, B, C, D & E: Built out.

City Block 18 (Pages 64 & 65)

- Sub-blocks A & B: No applications/development to date.

City Block 19 (Pages 65 & 66)

- Sub-blocks A & B: No applications/development to date.

2.2. DCC has also provided an overview on the amount of development that has been permitted in the North Lotts and Grand Canal Dock SDZ:

- Residential units: **2524** dwellings (northside 1738 and southside 786)
- Commercial floorspace: **524,000 sqm** (northside 330,400 sqm and southside 193,600 sqm)

Under the Planning Scheme for the SDZ, 2600 residential units and 366,000 sqm of commercial floorspace were envisaged. Thus, the former figure has almost been reached and the latter figure has been exceeded by 193,600 sqm (+52.9%).

2.3. Under the proposed amendments to this Planning Scheme, 225 residential units (+8.9%) and 22,500 sqm (+6.1%) of commercial floorspace would be added above that which was originally envisaged. DCC points out that this additional provision would occur in 7 of the 20 city blocks, i.e., less than half of the overall developable area of the SDZ, and so it would be relatively concentrated.

2.4. DCC concludes its update with the following paragraph:

With regard to environmental and other considerations, DCC undertook a full SEA and AA screening of the proposed amendments as part of the preparation of the submission. All granted planning application since that time have also been subject to environmental reporting and assessment, and, where appropriate, relevant detailed reports have formed part of the planning application process. No new matters have arisen to require any reconsideration of the submitted documentation.

3.0 Planning History

Several significant Boad decisions affecting lands within the North Lotts and Grand Canal SDZ Planning Scheme have been made since my last report.

- **ABP-305317-19:** Proposed amendment to the North Lotts and Grand Canal Dock SDZ Planning Scheme in relation to revised pedestrian/cycle bridge location across the River Liffey: Refused on 8th September 2020, thereby reconfirming the earlier refusal of a similar amendment PL29N.ZE0006.
- **ABP-309316-21:** SHD application for 1,005 apartments in blocks ranging in height from 8 no. to 45 no. storeys at North Wall Quay: Refused on 20th May 2021 on the grounds that the Board considered that, in the light of the High Court judgement on the case of Dublin City Council v An Bord Pleanála and notice party Spencer Place Development Company Ltd [2020 No. 557 JR], it was precluded from granting permission, as under the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, the Board does not have jurisdiction to materially contravene the North Lotts and Grand Canal Dock Planning Scheme.
- **ABP-305219-19:** SHD application for 548 residential units in blocks ranging in height from 3 no. to 13 no. storeys at Spencer Dock: Granted on 2nd April 2020, subsequently, this decision was quashed by the High Court only to be allowed by the Court of Appeal (Record Nos. 2021/19 and Neutral Citation No. [2023] IECA 155) on 16th June 2023 in a judgement which held that the Board does have jurisdiction under the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, to grant permission for SHD in material contravention of a planning scheme.

4.0 Policy context

- 4.1. Since the Board's decision on 16th March 2021, the policy context at national and regional levels relevant to the proposed amendments to the North Lotts and Grand Canal Dock Planning Scheme has remained unchanged.
- 4.2. At the local level, however, the Dublin City Development Plan 2016 – 2022 has been replaced with the Dublin City Development Plan 2022 – 2028. Like its predecessor, the replacement Plan discusses building heights, under Chapter 4 entitled "Shape and Structure of the City". The following policies from this Chapter retain the previous numbering convention cited in my report dated 10th March 2020.

SC16: Building height locations

To recognise the predominantly low rise character of Dublin City whilst also recognising the potential and need for increased height in appropriate locations including the city centre, Strategic Development Zones, Strategic Development Regeneration Areas, Key Urban Villages and other locations as identified in Appendix 3, provided that proposals ensure a balance with the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area.

SC17: Building height

To protect and enhance the skyline of the city, and to ensure that all proposals with enhanced scale and height:

- *follow a design led approach;*
- *include a masterplan for any site over 0.5ha (in accordance with the criteria for assessment set out in Appendix 3);*
- *make a positive contribution to the urban character of the city and that responds positively to the existing or emerging context;*
- *deliver vibrant and equitable neighbourhoods that are walkable, compact, green, accessible, mixed and balanced;*
- *Do not affect the safety of aircraft operations at Dublin Airport (including crantage); and*
- *have regard to the performance-based criteria set out in Appendix 3.*

All new proposals in the inner city must demonstrate sensitivity to the historic city centre, the River Liffey and quays, Trinity College, the cathedrals, Dublin Castle, the historic squares and the city canals, and to established residential areas and civic spaces of local and citywide importance.

SC18: Landmark/tall buildings

To promote a co-ordinated approach to the provision of landmark/tall buildings through Local Area Plans, Strategic Development Zones and the Strategic Development and Regeneration Area principles, in order to prevent visual clutter or cumulative negative visual disruption of the skyline and that such proposals comply with the performance based criteria set out in Appendix 3.

Under Figure 4-1, the Key Views and Prospects map of the inner city is reproduced from the previous Plan. These views and prospects have a bearing or a potential bearing on development within the North Lotts and Grand Canal Dock SDZ.

Under Chapter 13 entitled “Strategic Development Regeneration Areas”, an update is provided on progress towards the implementation of the North Lotts and Grand Canal Planning Scheme 2014. Under Chapter 6 entitled “City Economy and Enterprise”, Policy CEE9 entitled “The Docklands” undertakes to support their continuing regeneration and “its development as a leading centre of people intensive high tech and services based industry.”

Under Appendix 3 entitled “Achieving Sustainable Compact Growth Policy for Density and Building Height in the City”, key locations are identified for increased height and density. These locations include the City’s SDZ, one of which is the North Lotts and Grand Canal Dock. The following commentary is provided:

There are existing Planning Schemes for these areas which include detailed development frameworks that promote an appropriate scale, form and density of development. Detail is set out regarding the appropriate location for taller local landmarks as well as block layouts to ensure an appropriate scale of development. Development proposals in these areas must be in accordance with the provisions and framework set out in the relevant Planning Scheme.

5.0 **Assessment**

- 5.1. I have reviewed DCC’s update submission, recent significant Board decisions within the North Lotts and Grand Canal Dock SDZ, and the Dublin City Development Plan 2022 – 2028. I have also undertaken a further site visit of the SDZ.
- 5.2. I note from DCC’s update submission and my site visit on 4th July 2023 that development has in recent years continued and that a high proportion of the SDZ has now been developed. I note, too, the conclusion of this submission that “No new matters have arisen to require any reconsideration of the submitted documentation.” It thus clearly signals that the originally proposed amendments to the North Lotts and Grand Canal Dock Planning Scheme with respect to height remain, in DCC’s view, appropriate.

- 5.3. The recent significant Board decisions are summarised above under Section 3 of my report. In relation to the decision on ABP-305317-19, I would direct the Board's attention to Paragraph 5.21 of my report dated 10th March 2020 for relevant observations. In relation to the decisions on ABP-309316-21 and ABP-305219-19 and the legal judgements arising, these ultimately pertain to whether the Board is entitled when determining a site-specific application/appeal to materially contravene the North Lotts and Grand Canal Dock Planning Scheme, whereas the question presently before the Board is whether the proposed amendments to this Planning Scheme for the entire SDZ would be appropriate.
- 5.4. I have compared the latest Dublin City Development Plan with its predecessor. I note that at a strategic level the approach to increased height in Dublin City is essentially rolled forward. I note, too, that the latest Plan explicitly defers to the Planning Scheme with respect to guidance on height within the North Lotts and Grand Canal Dock SDZ.
- 5.5. In the light of my assessment, I conclude that there have been no material changes in planning circumstances borne of either the recent planning history of the North Lotts and Grand Canal Dock SDZ or the policy context provided by the Dublin City Development Plan 2022 – 2028, which would signal the need to depart from my previous recommendation to the Board set out in my report dated 10th March 2020.

6.0 Recommendation

- 6.1. That under Section 170A(4)(b) of the Planning and Development Act, 2000 – 2023, the Board approve the proposed amendments to the Planning Scheme for the North Lotts and Grand Canal Dock SDZ, subject to the omission of a revision in the height of Block 3D under Item 2 of Section 5.5.3(b) of the Planning Scheme.

7.0 Reasons and Considerations

Having regard to:

- The Planning and Development Act 2000 – 2023,
- The National Planning Framework,
- The Urban Development and Building Height Guidelines,

- The Regional Spatial and Economic Strategy of the Eastern and Midland Regional Assembly,
- The Dublin City Development Plan 2022 – 2028,
- The Planning Scheme for the North Lotts and Grand Canal Dock Strategic Development Zone 2014,
- Loci’s Urban Scale and Building Height Review: North Lotts and Grand Canal Dock Planning Scheme 2014: Report May 2019,
- Dublin City Council’s Review of Height and Proposed Amendments of North Lotts and Grand Canal Dock Planning Scheme 2014: May 2019,
- The 29 submissions made to Dublin City Council under the Section 170A(7) of the Planning and Development Act, 2000 – 2019, public consultation exercise,
- Dublin City Council’s Report on Public Consultation, December 2019, and
- The inspectors’ original, supplementary, and addendum reports,

It is considered that, subject to the omission of a revision in the height of Block 3D under Item 2 of Section 5.5.3(b) of the Planning Scheme, the proposed amendments to the Planning Scheme for the North Lotts and Grand Canal Dock Strategic Development Zone would satisfy the provisions of Special Planning Policy Requirement 3(B) of the Urban Development and Building Height Guidelines. These amendments would not raise any SEA or AA issues. They would thus accord with the proper planning and sustainable development of the said Strategic Development Zone.

Hugh D. Morrison
 Planning Inspector

2nd August 2023