



An
Bord
Pleanála

Addendum

Inspector's Report

ABP-317442-23

Development

Construction of 37 apartments and all associated site works. Demolition of warehouse building on site and removal of brick boundary wall fronting Richmond Lodge and steel fencing fronting Convent Avenue.

Location

Convent Avenue, Dublin 3, D03 FA02 known as Pete's Antiques. The site is adjacent to Richmond Lodge to the south and the grounds of St. Vincent's Hospital to the north.

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3539/23

Applicant(s)

Cabhrú Housing Association

Type of Application

Planning Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Cabhrú Housing Association

Observer(s)

Berni Fleming & Others

Richmond Lodge Residents

Date of Site Inspection

1st February 2024

Inspector

Conor Crowther

1.0 Introduction

1.1.1. This Addendum Report for appeal case ABP-317442-23 has been prepared following the Board Direction issued on the 16th April 2024 seeking further information (FI) from the appellant under the provisions of Section 132 of the Planning & Development Act, 2000 (as amended). The Board sought the following FI material:

- Plans, elevation, at not less than a scale of 1:100 and cross sections and long sections at an appropriate scale including details of the revised balcony and screening proposals on the south elevation of the amended scheme received by the Board as part of the appeal process.
- Demonstration of how the proposed development interacts with the development potential of the site to the east of the development site (noting, inter alia, previous permitted developments which appear to be expired – ref. 5120/08 and 2575/03).

1.1.2. The Board allowed for the appellant to respond to this request for FI within a period of approximately 3 weeks. The appellant submitted their response within the prescribed timeframe, and this was circulated to 3rd party observers and the Planning Authority for further comment. I note that further submissions were received from both 3rd party observers and that no further submission was received from the Planning Authority.

1.1.3. The purpose of this Addendum Report is to consider both the appellant's FI material and the 3rd party observers' further submissions. This report should be read in conjunction with my original Inspector's report dated the 7th March 2024, which is attached to this file.

2.0 Appellant's Response

2.1.1. The appellant's FI response was received by the Board on the 10th May 2024, and consists of the following:

- Written Response.
- Free-hand conceptual drawings of adjacent site.
- Photomontages of the southern elevation.

- Scaled drawings and sections showing the revised balcony and screening proposals submitted as part of the appeal to the Board.

2.1.2. The written response can be summarised as follows:

- 2 no. Largescale Residential Development (LRD) applications within the vicinity of the site have been granted or appealed to the Board since the lodgement of the appeal.
- The subject LRD applications are similar in nature to the proposed development and are of an increased height, in comparison to the proposed development, demonstrating the acceptability of increased heights in this area.
- The publication of the Sustainable Residential Development & Compact Settlement Guidelines since the lodgement of the appeal provides additional supporting policy context; Particularly, SPPR 1 which serves to refute refusal reasons no. 2 and 3 listed by the Planning Authority.
- The proposed development does not feature any balconies or windows directly facing the garden of no.5 Richmond Lodge. The closest windows are located along the southern elevation at a separation distance of approximately 16m.
- Any elements of the proposed development located closer than 16m to the garden of no.5 Richmond Lodge are appropriately screened and angled to not face this area of private amenity space.
- The setback distances and screening measures proposed are in accordance with the provisions of the Compact Settlement Guidelines.
- The proposed development provides an 18m setback distance from the front façade of dwellings along Richmond Lodge which is an appropriate distance considering the provisions of the Compact Settlement Guidelines and the 3-storey frontage onto 2 storey dwellings.

3.0 Further 3rd Party Responses

3.1.1. 2 no. Section 131 submissions were received by the Board from 3rd party observers, namely Berni Fleming & Others and Richmond Lodge Residents, on the 6th & 10th June 2024 respectively. The submissions are summarised as follows:

- The angled balconies and windows on the southern elevation are a welcome addition to the proposed development, which will help to minimise overlooking.
- The Planning Authority's reasons for refusal have not been addressed.
- The concerns and objections of residents have not been addressed.
- Drawing NO. DCA_PL_001B incorrectly shows land within the control of the appellant along the southern boundary of the site which is within the control of the residents of Richmond Lodge.
- Any building works must be carried out within the existing boundary wall, as the appellant does not have landownership rights beyond this boundary wall.
- Non-adherence to Zone 2 parking zone due to non-provision of vehicle parking.
- The lack of a set-down area and vehicle parking facilities will create a road safety hazard as the existing road is not wide enough to accommodate two cars passing each other without mounting the footpath. Visitor parking will also create an issue.
- No Construction Management Plan is provided which demonstrates permission to use the proposed private landing area to the south of the site.
- The proposed development represents overdevelopment of the site and does not comply with the Development Plan zoning objective.
- The appellant does not contest the landownership issue raised by observers along the southern boundary of the site.
- The appellant is either relying on incorrect mapping or attempting a land grab from neighbouring properties.
- The appellant has not engaged with the residents of Richmond Lodge.

- The excessive height, scale and density of the proposed development will dominate and overshadow the 1 and 2 storey existing neighbouring residential dwellings.
- The density and site coverage of the proposed development should be reviewed.

4.0 Additional Planning History

- 4.1.1. I note that additional planning applications in the vicinity of the site have been brought to the attention of the Board, one of which was not included in my original report as it was not a live planning application at the time of writing. The additional planning history therefore reads as follows:

Neighbouring Sites of Relevance:

- 4.1.2. LRD6041/24-S3 (ABP Ref. LH29N.319873) – Permission GRANTED by the Planning Authority in 2024 for a Largescale Residential Development for the demolition of existing buildings and structures onsite and construction of 90 no. dwelling units, 86 of which to be located within 2 no. 5 storey blocks, and associated works at Richmond Road and Convent Avenue to the west of the site. This application is currently under appeal to the Board at the time of writing.

5.0 Assessment

- 5.1.1. With regard to the 3rd party responses submitted by observers in response to the FI submitted by the appellant, I am of the opinion that no new issues have been raised and that all matters raised by the observers have been addressed in my original report. Given that the FI sought by the Board relates to the southern elevation of the proposed development and how the proposed development interacts with the development potential of the site to the east, my assessment will solely focus on these elements of the proposed development.

Southern Elevation:

- 5.1.2. I note that the appellant has submitted photomontages, scaled drawings and sections of the southern elevation of the proposed development. I am of the view that this material adequately demonstrates mitigation against overlooking of existing residential dwellings by way of screening and angling of balconies and windows on

this elevation. This confirms the conclusion of my original Inspector's Report which determines that the modifications proposed at appeal stage serve to adequately mitigate overlooking concerns along this elevation. The further 3rd party responses submitted in response to the FI material requested by the Board do not alter this conclusion as they represent original concerns that have been largely restated.

Interaction with the Development Potential of Adjacent Site to the East:

- 5.1.3. The FI material relating to the interaction of the proposed development with the development potential of the adjacent site to the east represents a new consideration in my assessment. Any commentary on the future development potential of the adjacent site in the context of the proposed development should not be considered as speculative as it solely relates to my consideration of its interaction with the proposed development, as requested by the Board in their FI Request.
- 5.1.4. Previous planning permissions on the adjacent site granted in 2003 (ref. 2575/03) and 2009 (ref. 5120/08) respectively and extended to 2011 (ref. 2575/03/x1), have since withered and 2 no. uncompleted buildings remain onsite. Thus, the future development of the adjacent site remains uncertain.
- 5.1.5. In response to the FI request, the appellant submitted 2 no. options in relation to how the proposed development would be integrated into or constructed to complement future development of the partially developed site to the east. The freehand drawings submitted by the appellant clearly show that the proposed development, by virtue of the proposed flank gable end which does not contain any windows, would not restrict the future development of this neighbouring site, notwithstanding the uncertainty surrounding the future development of the adjacent site.
- 5.1.6. The Board should note that the current zoning of the adjacent site is 'Inner Suburban & Inner City Sustainable Mixed Uses' which is a change from the previous zoning and, as such, any future application on this neighbouring site would need to have regard to the requirements of this zoning.
- 5.1.7. Having regard to the information submitted, I am satisfied that the appellant has adequately demonstrated that the proposed development will not hamper the future development of the adjacent site to the east and has adequately demonstrated a reasonable approach as to how both sites could be integrated or complement each other in the future, without prejudice to the future development of said site.

- 5.1.8. Given the planning history of the area, its urban location and residential and mixed-use zoning, it is evident, notwithstanding the future development of the adjacent site and without prejudice to the future determination of planning applications or appeals, that the surrounding area will be subject to change in the future. With regard to the proposed development and existing residential development, it will be important to manage the timing of construction of permitted and future development, particularly considering the nature of the proposed development as sheltered housing within an established residential community in an urban location. I consider that this is adequately addressed in the planning conditions, as set out in my original report and Section 8 of this report.

Other Matters:

- 5.1.9. With regard to the planning conditions included in my original Inspector's Report and the FI material submitted by the appellant in response to the FI request issued by the Board, I recommend the omission of Condition nos.2 & 4, and the rewording of condition no.1 as set out in Section 8 of my Addendum Report.

5.2. Conclusion

- 5.2.1. Having regard to the Section 132 request issued by the Board, the subsequent submissions by both the appellant and the 3rd party observers and the conclusions of my original Inspector's Report, it is considered that the proposed development, subject to conditions, does not negatively impact the residential amenities of future or existing surrounding residents, would likely interact positively with the development potential of the adjacent site and would be acceptable in accordance with the provisions of the Dublin City Development Plan 2022-2028, the Design Standards for New Apartments – Section 28 Guidelines, the Sustainable Residential Development and Compact Settlements Guidelines and the Urban Development & Building Heights Guidelines and would therefore represent proper planning and sustainable development of the area.
- 5.2.2. Having regard to the nature of the FI material submitted, I am of the view that the appellant's FI response to this Section 132 request bears no material consequence on the screening conclusions for Appropriate Assessment and Environmental Impact Assessment. Thus, I do not consider this further in my Addendum Report as the outcomes of the screening conclusions from my original report remain unaltered, as a result of the FI response.

6.0 Recommendation

I recommend that planning permission should be GRANTED, subject to conditions, for the reasons and considerations as set out below, as amended by this Addendum Report.

7.0 Reasons and Considerations

Having regard to the nature of the proposed development, the zoning of the site for residential development, the planning history of the area and the modifications to the development proposed in the appeal to the Board and detailed in the Section 131 response submitted to the Board, it is considered that subject to the conditions set out below, the proposed development would be acceptable and in accordance with the provisions of the Dublin City Development Plan 2022-2028, the Design Standards for New Apartments – Section 28 Guidelines, the Sustainable Residential Development and Compact Settlements Guidelines and the Urban Development & Building Heights Guidelines. The proposed development would achieve an acceptable design, would likely interact positively with the future development potential of the adjacent site to the east, would not negatively impact on existing or future residential amenities or give rise to the creation of a traffic hazard and would therefore be in accordance with the proper planning and sustainable development of the area.

8.0 Conditions

1. 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 received by the Board on the 26th day of June 2023 and on the 10th day of May 2024, 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.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) Replace the communal amenity open space area on the 3rd floor measuring 59.27 sq.m with an internal communal space of the same size.

(b) Remove the internal communal space on the 3rd floor measuring 54 sq.m and create additional communal amenity open space to merge with the proposed communal amenity open space located on the 3rd floor, to be provided with consistent landscaping and screening measures.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity.

3. 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. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.

Reason: In the interest of visual amenity.

4. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interests of sustainable waste management.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.
(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

Reason: In the interest of public health.

7. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

8. Proposals for an apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

9. (a) The communal amenity open spaces, including hard and soft landscaping, access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

10. A plan containing details for the management of waste (and, 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 and for the ongoing operation of these facilities for each apartment unit 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.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

11. Site development and building works shall be carried out only between the hours of 0800 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

12. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;

(b) Location of areas for construction site offices and staff facilities;

- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Provision of parking for existing properties at Richmond Lodge and Convent Avenue during the construction period;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

13.

- (a) No material change of use of any of the buildings in the proposed development shall take place without a prior grant of planning permission.

(b) The occupation of the sheltered accommodation units onsite is restricted to age cohort 60 years and older, and shall not be sold, let or otherwise transferred or conveyed without a prior grant of planning permission.

(c) The proposed sheltered accommodation units shall not be sold to private individuals as habitable dwellings.

Reason: In the interest of clarity.

14. Prior to the commencement of development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority pursuant to Section 47 of the Planning and Development Act 2000, as amended, which confirms that the development hereby permitted shall remain in single ownership and management and where no individual residential units shall be sold separately. Such agreement shall restrict the occupancy of all dwelling units hereby permitted to those eligible for the occupation of social and/or affordable housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

15. 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 of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion 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 of the development.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities 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.

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.

17. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of public open space, which benefits the proposed development. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not

covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

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.

Conor Crowther
Planning Inspector

5th July 2024