

Date | 11 January 2021
Our ref | JHM 01433197
Your ref |

An Bord Pleanála
The Secretary
64 Marlborough Street
Dublin 1

Applicant: Waterside Block 9 Developments Limited
Proposed Development: Waterfront South Central Strategic Housing Development

Dear Sirs

We refer to the above matter and confirm that we act on behalf of the Applicant, relative to the within application for a proposed strategic housing development (**SHD**) at Waterfront South Central, City Block 9, North Wall Quay, Dublin 1 (the **Proposed Development**).

The purpose of this letter is to demonstrate the compliance of the Proposed Development with the legal requirements of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended) (the **2016 Act**).

1. Definition of “strategic housing development”

The definition of “*strategic housing development*” is set out in section 3 of the 2016 Act. The concept is defined by reference to five separate categories of development which are described in paragraphs (a) (b), (ba), (c) and (d) of the definition. For the purposes of the Proposed Development, paragraph (a) is the only relevant paragraph; accordingly, the definition is set out below with the exclusion of paragraphs (b) to (d):

“strategic housing development” means -

- (a) *the development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses,*
- (b) ...
- (ba) ...
- (c) ...
- (d) ...

each of which may include other uses on the land, the zoning of which facilitates such use, but only if -

- (i) *the cumulative gross floor space of the ... houses comprises not less than 85 per cent ... of the gross floor space of the proposed development ... , and*
- (ii) *the other uses cumulatively do not exceed -*
 - (l) *15 square metres gross floor space for each house ... in the proposed development or to which the proposed alteration of a planning permission so granted relates, subject to a maximum of 4,500 square metres gross floor space for such other uses in any development, ...”.*

Accordingly, in order to fall within the statutory definition of “strategic housing development”, it is necessary that the following conditions are met:

- (a) There must be a development of 100 or more houses on land zoned for residential use or for a mixture of residential and other uses. This element of the definition is plainly met in the Proposed Development in relation to the residential development proposed to be constructed on the site in that the site is zoned for a mixture of residential and other uses. The statutory definition of “house” for this purpose includes a flat or apartment; and
- (b) The development of 100 or more houses can include “other uses on the land” (where the land has been appropriately zoned for that purpose) if a number of conditions are met. Not all of those conditions are relevant to the Proposed Development. Insofar as the conditions are relevant to the Proposed Development, they are that the other uses cumulatively must not exceed 15 square metres gross floor space (**sqm**) for each unit in the Proposed Development, subject to a maximum of 4,500 sqm for such other uses.

For completeness, it should be noted that section 3 of the 2016 Act makes it clear that car parking space which is ancillary to a SHD is to be disregarded for the purposes of “gross floor space”. The definition of “gross floor space” in section 3 only disregards floor space provided for the parking of vehicles by users of the building which can be said to be incidental to the primary purpose of the building (in this case a residential development). The definition of “gross floor space” in section 3 is as follows:

“the area ascertained by the internal measurement of the floor space on each floor of a building (including internal walls and partitions), disregarding any floor space provided for the parking of vehicles by persons occupying or using the building or buildings where such floor space is incidental to the primary purpose of the building”.

2. The Proposed Development

The Proposed Development consists of:

- (a) Construction of 1,005 No. residential units (with balconies and winter gardens) arranged in 3 No. blocks ranging in height from 15 No. storeys to 45 No. storeys over a triple-level basement, the former comprising:
 - Block A (8-14 No. storeys (with extended core to access roof level); Apartment mix: 116 No. 1-bed; and 92 No. 2-bed);
 - Block B (8-41 No. storeys (with extended core to access roof terrace); Apartment Mix: 172 No. 1-bed; and 247 No. 2-bed); and

- Block C (11-45 No. storeys (with extended core to access roof terrace); Apartment Mix: 207 No. 1-bed; 168 No. 2-bed,; and 3 No. 3-bed units), incorporating a public viewing deck at Levels 44 and 45;
- (b) Provision of other uses comprising: live/work suites (321 sq m), a gym/spa reception (51 sqm), a residents' games room (91 sq m), a residents' common room (110 sq m), a management office (96 sq m), a security office (50 sq m), concierge spaces (381 sq m), a childcare facility (450 sq m), a restaurant (110 sq m), an indoor Farmer's Market/foodhall (299 sq m), an external market area, a winter garden/seating area (130 sq m), and 4 No. café units (110 sq m, 167 sq m, 261 sq m and 192 sq m, respectively) all located at ground floor level; a residents' games room (90 sq m) located at Level 1 of Block B; a residents' common room (86 sq m) located at Level 14 of Block B; a residents' wellness club and common room (408 sq m) located at Level 24 of Block C; a restaurant (609 sq m) located at Level 32 of Block C; office use (1,894 sq m) from Floor Level 41 to 43 inclusive at Block C; and a public bar / function room (407 sq m) located at Level 44 of Block C;
- (c) Construction of three levels of basement (22,499 sq m), accommodating: waste storage areas (659 sq m), plant rooms (4,228 sq m), management offices (92 sq m), courier/parcel rooms (210 sq m), laundry rooms (138 sq m), ancillary residential storage (291 sq m), WCs (65 sq m), a gym/spa (1,529 sq m), a gym storage room (100 sq m), screen rooms (240 sq m), an indoor plant cultivation room (356 sq m), and parking for 176 No. car parking spaces, 10 No. motorcycle parking spaces and 1,693 No. bicycle parking spaces, with vehicular access provided by ramp from North Wall Avenue;
- (d) Provision of a pocket park and new pedestrian lanes from North Wall Quay, North Wall Avenue and Mayor Street Upper to the centre of the site; and
- (e) all site development works, landscaping (including living walls), lighting, services and connections, waste management and all other ancillary works above and below ground including the use of existing secant piling permitted under Reg. Ref. DSDZ3779/17 and DSDZ3780/17 (as amended by DSDZ3042/19).

3. Analysis

For compliance with the definition of *“strategic housing development”* in section 3 of the 2016 Act there must be a development of 100 or more houses on land which is either zoned for residential use or for a mixture of residential and other uses.

The Proposed Development the subject of this application comprises 1,005 residential units on land that is zoned for a mixture of residential and other uses. Accordingly, the Proposed Development complies with the criterion relative to the required number of housing and zoning.

In addition, the definition of *“strategic housing development”* allows that the development may include *“other uses on the land, the zoning of which facilitates such use”*, but only if the other uses cumulatively do not exceed a maximum of 4,500 sqm *“for such other uses in any development”*.

The Proposed Development the subject of this application includes other uses, which are broken down as follows:

Other use	Area (sqm)
Childcare facility	450 sqm

Restaurant	110 sqm
Indoor Farmer's Market/foodhall	299 sqm
3 ground floor level café units, including Town Hall	110 sqm, 167 sqm and 261 sqm
Restaurant located at Level 32, Block C	609 sqm
Public bar / function room located at Level 44, Block C	407 sqm
Office use from Floor Level 41 to 43, Block C	1,894 sqm
TOTAL	4,307 sqm

Accordingly, the Proposed Development complies with the criterion relative to other uses, as cumulatively they do not exceed the maximum of 4,500 sqm.

Separately, having regard to the fact that the Applicant has lodged an application for a commercial development on the balance of City Block 9, it is important for An Bord Pleanála to note that the Proposed Development the subject of the SHD application can be considered as, and is, a standalone application. An Bord Pleanála previously raised this issue in the context of the consultation for case reference PL29N.306158. In order to fully address this issue, the Proposed Development has been redesigned to ensure that it is not dependent on any other proposal for which permission has not yet been granted.

4. Conclusion

On the basis of the above, it is clear that the Proposed Development falls within the definition of "*strategic housing development*", as set out in section 3 of the 2016 Act. Therefore, An Bord Pleanála can grant permission.

Yours faithfully



A&L Goodbody

M-52510131-3