

November 2019

**Proposed Amendments
to the North Lotts &
Grand Canal Dock SDZ
Planning Scheme in
relation to Building Heights**



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Introduction

The SCSi welcome this opportunity to comment on the Proposed Amendments to North Lotts and Grand Canal Dock Planning Scheme. SCSi is a leading professional body for construction, land and property professionals in Ireland. The SCSi regularly make submissions in relation to policy development and legislative initiatives to represent the interest of our members, with the aim of advancing standards in construction, land and property. The SCSi is also actively engaged in research, as well as policy formulation, and provides important publications to advance knowledge in the sector.

The ‘*Urban Development and Building Heights – Guidelines for Planning Authorities*’ 2018 (the ‘Height Guidelines’) reflects the National Planning Framework strategic outcomes in relation to compact urban growth. The Height Guidelines seek to remove overly restrictive height parameters described in local authority development plans.

Following publication, the specific planning policy requirements (SPPRs) in the guidelines:

“...take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans / schemes need to be amended by the relevant planning authority to reflect the content and requirements of these guidelines and properly inform the public of the relevant SPPR requirements.” (Page 4. Para. 1.14, emphasis added).

SPPR 3 states that:

“...(B) In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme.” (SPPR 3 of the Height Guidelines).

It is within this context that the Proposed Amendments to North Lotts and Grand Canal Dock Planning Scheme (the Amended Planning Scheme) have been published. The Amended Planning Scheme describes a series of amendments to the text of the Planning Scheme, with alterations to the approach taken to permissible height on a number of city blocks.

The SCSi has previously made submissions concerning building height in Ireland. The SCSi strongly support the need to increase density in our cities, towns and villages and that achieving this objective through increased building heights in urban environments is in many cases, appropriate. Therefore, the SCSi welcomes the principle of the draft proposals within the Amended Planning Scheme. The SCSi retains some reservations regarding the approach taken to these proposed amendments as currently drafted and this is described in more detail below, as well as within our comments on the individual amendments referenced.

The application of the Height Guidelines to the Amended Planning Scheme

The SCSi's fundamental concern relates to the application of the criteria within the Height Guidelines in the SDZ area and how this has subsequently informed the approach in the Amended Planning Scheme. In summary, there is little evidence or justification to underpin how the recently adopted Height Guidelines has informed the approach taken in the Amended Planning Scheme. As a result, it is unclear how the criteria set out in the Height Guidelines *"are fully reflected in the planning scheme."* (SPPR 3).

The criteria applied by SPPR 3 is set out in paragraph 3.2 'Development Management Criteria' and broken down according to environmental typology – i.e. city / town / country. These criteria (set out below) are to be applied to proposals, to the satisfaction of *"the Planning Authority / An Bord Pleanála"*:

At the scale of the relevant city/town

- *The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport;*
- *Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development **proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner.***
- *On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape. (Para. 3.2 criteria, Height Guidelines, emphasis added).*

The Amended Planning Scheme does not describe how the above criteria has informed the proposed amendments as currently drafted. In particular, there is no landscape and visual assessment to describe what the impact of new development at the heights specified in the Planning Scheme, would be upon the surrounding townscape. **There is no explanation within the published amendments to describe what influenced the decision to increase height to specific city blocks and not others within the SDZ area. These decisions should have been informed by the criteria set out in the Height Guidelines (copied above) and accompanied by an assessment of potential impacts. As a result, the SCSi consider the Amended Planning Scheme to be contrary to SPPR 3 of the Height Guidelines.**

In the absence of an evaluation of impact, including daylight / sunlight studies, environmental assessment and visual impact upon the waterfront, it is not possible to determine the assessment that has informed the proposed amendments to the Planning Scheme and how this relates to the Height Guidelines. Furthermore, the SCSi consider that without the testing of a specific design proposal, it is not possible to conclude conformity with criteria within the Height Guidelines. The Height Guidelines states:

*"...within the canal ring in Dublin... In such areas, it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the **scope to consider even greater building heights by the application of the objectives and criteria laid out in Sections 2 and 3 of these guidelines**, for example on suitably configured sites, where there are particular concentrations of enabling*

*infrastructure to cater for such development, e.g. very significant public transport capacity and connectivity, and **the architectural, urban design and public realm outcomes would be of very high quality.***" (Page 3. Para. 1.10 of the Height Guidelines, emphasis added).

Without a detailed planning application before the planning authority, it is impossible to draw a conclusion in relation to these criteria, particularly in relation to design quality and environmental impact. Therefore, the application of blanket restrictions on proposed development height in the SDZ area through the Amended Planning Scheme, is at odds with the flexibility and criteria-based assessment on proposed development described in the Height Guidelines.

*"In some cases, statutory development plans have tended to set out **overly restrictive maximum height limits** in certain locations and crucially without the proper consideration of the wider planning potential of development sites..."* (Page 8. Para. 2.6 of the Height Guidelines, emphasis added).

SCSI is concerned that the overly prescriptive approach taken in the original Planning Scheme remains unaltered by these amendments, contrary to the Height Guidelines.

*"...Strategic Development Zone (SDZ) Planning Schemes and their implementation in city, metropolitan and wider urban areas must therefore become **more proactive and more flexible in securing compact urban growth** through a combination of both facilitating increased densities and building heights, while also being mindful of the quality of development and balancing amenity and environmental considerations."* (Page 8. Para.2.7 of the Height Guidelines, emphasis added).

It is useful to refer to precedent planning application cases, to illustrate how detailed design elements can influence the acceptability of a proposed development. Planning application Ref. PL29S.302980 at Tara House, 2-16 Tara Street, Dublin 2, concerned the approval of a 22 storey office and hotel building. Whilst falling within Development Plan height policy parameters, the case provides insight into how the detailed design of the building informs the decision to grant planning consent. Previously, planning permission was refused on the site for a 22 storey building as a result of its perceived bulk, scale and mass (PL29N.248941). The revised planning application continued to propose a 22 storey building, but through its refined detailed design, the Board considered that the approved scheme would:

'Have an acceptable and appropriate slenderness ratio which will enhance the visual impact of the proposed development from important vantage points within the city, having regard to its scale, design and mass'. (Page 8 of the Board Order ABP-302980-18).

It was only in consideration of the specific design detail of the proposed building, that the Board were able to conclude that the visual impact of a building at the scale proposed, accorded with the Height Guidelines and other planning policy requirements.

The North Lotts and Grand Canal Dock SDZ Planning Scheme limits the height of proposed development to between 5 and 10 storeys in height (with limited opportunity for landmark buildings up to, and limited to, 22 storeys in height). **This prescriptive approach is overly restrictive and inhibits the ability to develop a suitable design for the city blocks in excess of height limitations and where this is without any resulting adverse impact. The Planning Scheme lacks assessment of why heights in excess of those prescribed would be unacceptable on specific plots.**

The SCSI consider that a broader interpretation of the Height Guidelines as they apply to individual proposals (without blanket numerical height restrictions), would encourage an unfettered environment where innovative development can thrive.

This type of flexibility in planning policy can be observed in the UK, where policy frameworks have been prepared to explicitly facilitate taller buildings where a development proposal fulfils particular criteria. As a result, policies do not 'cap' or include 'blanket restrictions' on height in the assessment of development proposals for tall buildings.

Such an approach is taken by the London Legacy Development Corporation in their Local Plan revised Policy BN.5 (formerly BN.10). In this policy, those areas where tall buildings are expected to be located are highlighted, but not excluded from other locations in the Plan area. A definition of tall building explains that these are buildings 'higher than the prevailing or generally expected height' in the area. There is no cap on the height of a tall building, and instead, specific criteria are listed that a proposal would be assessed against. Failure to comply with that criteria would indicate that the buildings height was inappropriate. These criteria include the review of the visual, environmental and microclimatic impacts of the building, as well as improved public realm at ground level. This approach ensures that there is flexibility over the maximum height that a proposed development might include, whilst retaining appropriate management of impacts through the assessment of proposals against the criteria. Where these impacts are unacceptable, a proposal would be refused.

The London Borough of Southwark include a similar approach in their Local Plan Policy P14 'Tall Buildings'. In this policy the areas that tall buildings are expected to be located are again highlighted, but there is no explicit exclusion of tall buildings being located elsewhere in the Plan area. Criteria are listed that proposals for tall buildings will be expected to satisfy if they are to be considered acceptable. This includes an assessment of impacts on the townscape, landscape and streetscape, as well as being of 'exemplary architectural design and residential quality'. Tall buildings are defined as being 'significantly higher than surrounding buildings or emerging context'. There is no numerical restriction on the height of a tall building or any other building in the Plan area. The advantage being that assessments are based upon the character of the local area and environmental impact. It is also expected that proposals for tall buildings include significant public benefit for the local community.

A further consequence of the Amended Planning Scheme and the restriction of height within the SDZ area, is that taller buildings will be permitted outside the Docklands area, where this is in accordance with the criteria set out in the Height Guidelines. This is likely an unintended consequence, but an outcome which is already being realised. The Docklands area of Dublin is widely accepted to be the most appropriate location for tall buildings in the country. This is confirmed in the Dublin Chamber conclusion on its 'Building Heights Review: North Lotts and Grand Canal Dock Planning Scheme' 18th April 2019 with the following statement:

"Dublin Chamber recommends that Dublin City Council review the building height limits to increase its allowance for the North Lotts and Grand Canal Dock area. The area in question benefits from strong public transport links as well as a vibrant business and residential community. Its distance from the Georgian core and close proximity to the Poolbeg SDZ mean that new buildings of increased height will assimilate well to the landscape and contribute to the goal of core density for Dublin."

However, with the retention of numerical height restrictions in the Amended Planning Scheme, development proposals will be confined in scale. A recent decision from An Bord Pleanála in Cork, demonstrates the anomaly that will occur, with the potential to achieve greater flexibility and scale outside the Docklands area. The Inspector's report (Reg. Ref. 302923) stated in relation to the proposal for a 15 storey building (61.5m) on Clontarf Street, Deane Street and Oliver Plunkett Street in Cork:

"I conclude that, notwithstanding the CDP's height policy, under the UDBH Guidelines the proposal for a tall building on the subject site cannot be ruled out in principle and so it falls to be assessed on performance criteria." (Page 22).*

**Urban Development and Building Heights (the Height Guidelines).*

The application was subsequently approved. A recent planning application has also been submitted in the Corks Docklands area for a 25 storey building (82m), which would become Ireland's tallest building if approved. It is invariable that similar tall-building proposals will be approved in other Dublin City Centre locations where the criteria in the Height Guidelines is satisfied, and this will be outside of the Dublin Docklands area, which is being unreasonably constrained by the restrictions set out in the Amended Planning Scheme.

Conclusion

The Height Guidelines are intended to allow a flexible approach that responds to the detailed design of a specific proposal, on the basis of its location, design and impact. The prescriptive approach taken to individual city blocks in the North Lotts and Grand Canal Dock SDZ Planning Scheme in relation to Building Height is contrary to this approach and there is an absence of evidential assessment to support the heights specified. This approach remains unchanged in the Amended Planning Scheme in relation to height. In short, the application of numerical limitations on building height within the Amended Planning Scheme conflicts with the Height Guidelines SPPR 1.

*"In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town / city cores, **planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued** for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies **and shall not provide for blanket numerical limitations on building height.**" (Page 10, emphasis added).*

The application of blanket restrictions on proposed development height in the SDZ area through the Amended Planning Scheme, is at odds with the flexibility and criteria-based assessment on proposed development described in the Height Guidelines. As currently drafted, the Amended Planning Scheme will also lead to unintended consequences, such as constraining development within the SDZ area while buildings are approved at a larger scale outside of the SDZ area in accordance with the Height Guidelines.

The SCSi consider the Amended Planning Scheme to be contrary to SPPR 3 for the following reasons:

- There is no explanation within the published amendments to describe what influenced the decision to increase height on specific city blocks and not others within the SDZ area.
- There is no landscape and visual assessment to describe what the impact of new development at the heights specified in the Amended Planning Scheme, would be upon the surrounding townscape, in accordance with criteria under SPPR 3.
- The Amended Planning Scheme lacks assessment of why heights in excess of those prescribed would be unacceptable on specific plots.

As a result, the SCSi consider the Amended Planning Scheme needs to be amended to prevent it from being in contravention to SPPR 1 and SPPR 3 of the Height Guidelines.

Comments for specific amendment reference points below:

Proposed amendment Reference no.1;

Section 5.4.5 Height as part of the Urban Structure

▼ proposed changes

Page 174. Last sentence to be amended, i.e. "In addition to the setbacks which may be necessary for design and amenity reasons within the height envelope in Fig. 35, an additional storey, with a setback of 1.5m plus may be considered subject to a shadow analysis and a compelling urban design rationale. ~~This option for additional storey shall not apply to Blocks 1 to 5~~ This provision does not apply to any landmark or local landmark buildings

The principle of this amendment is welcomed, recognising that flexibility in approach should be applied across city blocks and assessed on a case-by-case basis, rather than being restricted to individual city blocks. The application of this approach to additional set-back height across all city blocks allows for consideration of the proposed design and potential impacts arising from a specific development proposal. However, it is questioned whether the new restriction in relation to landmark or local landmark buildings is justified. It is unclear from the proposed amendment what assessment has informed this new restriction. SCSi would welcome a consistent application of the approach to additional set-back height across the Planning Scheme area, recognising that additional height should be assessed on a case-by-case basis. As currently drafted, and as a result of the restriction relating to landmark or local landmark buildings, we consider the proposed amendment to be at odds with SPPR 1 and SPPR 3 of the 'Urban Development and Building Heights – Guidelines for Planning Authorities' 2018.

Proposed amendment Reference no.2;

Section 6.1.2 providing co-ordinated delivery, requirements for each City Block

▼ Proposed Changes

~~In relation to height, any new building or additional height to existing buildings shall relate to the prevailing height as set out in the relevant city block or adjacent blocks in the Development Code.~~ The approved amended SDZ Planning Scheme has had full regard to the Planning Guidelines on Urban Development and Building Height 2018. As such, any proposed new building replacing an existing building or additional height to existing buildings shall be assessed in the context of the overall height in the approved amended SDZ Planning Scheme, which reflect the criteria set out in the Building Height Guidelines. Proposals involving a material change of use shall accord with the land use mix ratio as set out in the Development Code (See Chapter 5 for Development Code for Individual City Blocks).

The 'Urban Development and Building Heights – Guidelines for Planning Authorities' 2018 (the 'Height Guidelines') describes a clear approach to facilitating compact growth and increased densities in our urban centres. This includes specific Development Management criteria to be applied to individual applications for building development at scale. Whilst section 5.4.5 of the Planning Scheme identifies the approach taken to height in the SDZ area, it predates the Height Guidelines and the amended Planning Scheme does not clearly identify how the application of the 'Height Guidelines' has informed the alterations proposed. As such, it is suggested that while this amendment describes an adherence to national policy set out in the Height Guidelines, this is without practical demonstration of its

application to the Planning Scheme, and specifically the amendments subsequently proposed. The Amended Planning Scheme restates a restriction on proposed development in the SDZ area in relation to height, and as such SCSi consider this to be at odds with SPPR 1 and SPPR 3 of the Height Guidelines.

Proposed amendment Reference no.3;

Appendix 3, Providing Co-ordinated Delivery



(Re-state comment for Proposed amendment Reference no.2).

The 'Urban Development and Building Heights – Guidelines for Planning Authorities' 2018 (the 'Height Guidelines') describes a clear approach to facilitating compact growth and increased densities in our urban centres. This includes specific Development Management criteria to be applied to individual applications for building development at scale. Whilst section 5.4.5 of the Planning Scheme identifies the approach taken to height in the SDZ area, it predates the Height Guidelines and the amended Planning Scheme does not clearly identify how the application of the 'Height Guidelines' has informed the alterations proposed. As such, it is suggested that while this amendment describes an adherence to national policy set out in the Height Guidelines, this is without practical demonstration of its application to the Planning Scheme, and specifically the amendments subsequently proposed. The Amended Planning Scheme restates a restriction on proposed development in the SDZ area in relation to height, and as such SCSi consider this to be at odds with SPPR 1 and SPPR 3 of the Height Guidelines.

Proposed amendment Reference no.4 – 10;

(REPEAT CONCLUSION FOR EACH BLOCK AMENDMENT)

The application of blanket restrictions on proposed development height in the SDZ area through the Amended Planning Scheme is contrary to SPPR 1, and at odds with the flexibility and criteria-based assessment on proposed development described in the Height Guidelines under SPPR 3.

- There is no explanation within the published amendments that describe what influenced the decision to increase height on specific city blocks and not others within the SDZ area.
- There is no landscape and visual assessment to describe what the impact of new development at the heights specified in the Amended Planning Scheme, would be upon the surrounding townscape, in accordance with criteria under SPPR 3.
- The Amended Planning Scheme lacks assessment of why heights in excess of those prescribed would be unacceptable on specific plots.

The Height Guidelines are intended to allow a flexible approach that responds to the detailed design of a specific proposal, on the basis of its location, design and impact. The prescriptive approach taken to individual city blocks in the North Lotts and Grand Canal Dock SDZ Planning Scheme in relation to Building Height is contrary to this approach and there is an absence of evidential assessment to support the heights specified. This approach remains unchanged in the Amended Planning Scheme in relation to height. In short, the application of numerical limitations on building height within the Amended Planning Scheme conflicts with the Height Guidelines SPPR 1.

*“In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town / city cores, **planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.**”* (Page 10, emphasis added).

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As a result, the SCSi consider the Amended Planning Scheme needs to be amended to prevent it from being in contravention to SPPR 1 and SPPR 3 of the Height Guidelines.