



An
Bord
Pleanála

**S. 6(7) of Planning and
Development (Housing) and
Residential Tenancies Act 2016**

**Inspector's Report on
Recommended Opinion
ABP-301097-18**



Strategic Housing Development

Location	Chesterfield, Cross Avenue, Blackrock, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Prospective Applicant	Cairn Homes Properties Ltd
Date of Consultation Meeting	11 th April 2018
Date of Site Inspection	04 th April 2018
Inspector	L. Dockery

1.0 Introduction

Having regard to the consultation that has taken place in relation to the proposed development and also having regard to the submissions from the planning authority and the documentation received from the prospective applicant, the purpose of this report is to form a recommended opinion as to whether the documentation submitted with the consultation request under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016 - (i) constitutes a reasonable basis for an application under section 4, or (ii) requires further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

2.0 Site Location and Description

2.1 The subject site, which has a stated area of approximately 3.19 hectares, is located to the south of Cross Avenue, east of Merrion Avenue and west of Booterstown Avenue. It is located approximately 1km from Blackrock village. This is an established area, with Cross Avenue characterised by a number of large dwellings on relatively large sites, many of which are Protected Structures.

2.2 The site is located within the grounds of Chesterfield House, the original drawing room of which is designated as a Protected Structure. The site rises towards the southern boundary while the boundaries of the site are well screened with mature planting. A man-made pond feature is located towards the centre of the site, which is proposed to be retained. The site is surrounded by a mix of residential properties ranging from two-storey dwelling to four storey apartment buildings. The site is currently overgrown and Chesterfield House appears unoccupied.

3.0 Proposed Strategic Housing Development

3.1 The proposed development comprises the demolition of the non-original fabric of Chesterfield House and 3 no. derelict sheds, the construction of 217 residential units (6 houses, 211 apartments), resident's amenity facility incorporating a gymnasium, meeting rooms and cinema and all ancillary development.

New density of 68 units/hectare is proposed.

3.2 The breakdown of the 217 units are as follows:

	1 bed	2 bed	3 bed	4+ bed	Total
Houses	-	-	-	6	6
Apartments	31	106	74	-	211
Total	31	106	74	6	217

The proposal includes for the demolition of non-original elements of Chesterfield House, 221 square metres with the original drawing room, a Protected Structure being retained. The proposal seeks to incorporate this drawing room into a new three-bedroom dwelling, three stories in height.

The existing entrance onto Cross Avenue is proposed to be utilised, with some alterations to the roadway, boundaries and path.

4.0 National and Local Planning Policy

4.1 Section 28 Ministerial Guidelines

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant section 28 Ministerial Guidelines are:

- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual').
- 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities'
- 'Design Manual for Urban Roads and Streets'.
- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices').

- ‘Childcare Facilities – Guidelines for Planning Authorities’.
- ‘Architectural Heritage Protection - Guidelines for Planning Authorities’

4.2 Local Planning Policy

The Dun Laoghaire Rathdown County Development Plan 2016 applies. The subject site is zoned ‘Objective A’ in the operative Dun Laoighre Rathdown County Development Plan, which seeks ‘to protect and/or improve residential amenity’. Residential development is ‘permitted in principle’ under this zoning objective.

There is an objective ‘to protect and preserve Trees and Woodlands’ on site.

The original drawing room within Chesterfield House is designated as a Protected Structure, RPS No. 171.

Section 2.1.3.3 Policy RES3: Residential Density

Section 6.1.3.1 Policy AR1: Record of Protected Structures

Section 6.1.3.5 Policy AR5: Buildings of Heritage Interest

Section 8.2.3.3 Apartment Development

Section 8.2.11 Archaeological and Architectural Heritage

Appendix 9: Building Height Strategy

Appendix 13: Flood Risk Assessment

5.0 Planning History

There are a number of applications relating to the site and its environs. However, the most recent and relevant applications are as follows:

D10A/0591/E (PL06D.238361)

Permission GRANTED for extension of duration of permission for construction of 90 residential units and associated development on the subject lands in lieu of

development permitted under D06A/0069. Site Area 2.5 hectares; permitted density 36 units/hectare

D10A/0591/E (PL06D.238361)

Permission GRANTED on appeal for construction of 90 residential units and associated development on the subject lands in lieu of development permitted under D06A/0069. Site Area 2.5 hectares; permitted density 36 units/hectare

D06A/0069 (PL06D.218536)

Permission GRANTED on appeal for 142 residential units, with 220 basement car parking spaces. Number of units reduced from 204 applied for to 142 permitted

D04A/0950 (PL06D.210828)

Permission REFUSED on appeal for construction of 76 houses and 45 apartments and associated site works for one reason which related materially and adversely affect the existing built form, character, landscape setting and residential amenity of the existing Protected Structure and its curtilage. The Bord considered that the principle of residential development on the site was acceptable and considered that the southern portion of the site could accommodate a relatively high density infill residential scheme.

6.0 **Section 247 Consultation(s) with Planning Authority**

6.1 It is stated by the prospective applicants in the submitted documentation that four Section 247 pre-application consultations took place with the planning authority.

7.0 **Forming of Opinion**

7.0.1 Pursuant to section 6(7) of the Act of 2016, regard is had in the forming of the opinion to the documentation submitted by the prospective applicant; the planning authority submissions and the discussions which took place during the tripartite consultation meeting. I shall provide brief detail on each of these elements below.

7.1 Documentation Submitted

- 7.1.1. The prospective applicant has submitted information pursuant to section 5(5)(a) of the Planning & Development (Housing) and Residential Tenancies Act 2016 and Article 285 of the Planning and Development (Strategic Housing Development) Regulations 2017. This information included, inter alia, scaled drawings (plans, sections and elevations) including Residential Quality Audit, completed application form, completed pre-connection enquiry feedback form from Irish Water, Cover Letter, Planning Statement, AA Screening Report, EIA Screening Report, Bat Survey, Ecological Impact Assessment, Visual Impact Assessment, Childcare Assessment Report, Part V details, Utilities Report, Energy Statement, Architectural Heritage Impact Assessment, Archaeological Assessment, Landscape Report, Civil Engineering Infrastructure Report, Traffic Assessment, Construction Management Plan, Arboricultural Impact Assessment, Mechanical and Electrical Document Register, Sunlight and Daylight Access Analysis, photomontages, Architectural Design Statement, Landscape Design Drawings, Engineering Services Drawings, Mechanical and Electrical Drawings
- 7.1.2. In addition, section 5(5)(b) of the Act of 2016 requires the submission of a statement that, in the prospective applicant's opinion, the proposal is consistent with both the relevant objectives of the development plan or local area plan concerned, and the relevant guidelines issued by the Minister under section 28 of the Act of 2000. These statements have been submitted, as required.
- 7.1.3. I have considered all of the documentation submitted by the prospective applicant, relating to this case.

7.2 Planning Authority Submission

- 7.2.1 In compliance with section 6(4)(b) of the 2016 Act the planning authority for the area in which the proposed development is located, Dun Laoghaire Rathdown County Council, submitted a note of their section 247 consultations with the prospective applicant and also submitted their opinion in relation to the proposal. These were received by An Bord Pleanála on March 29th 2018.
- 7.2.2 The planning authority's 'opinion' included the following matters: planning history; site and surrounding area; general observations; pre-planning consultations, policy context; local policy documents; national planning policy; Part V; height, scale and

design; mix; density; design and layout; Chesterfield House and apartment layout/use; public realm; apartment standards; impact on adjoining amenities; private/public open space; landscape design; elevations/external finishes; permeability; childcare facilities; bin storage; taking in charge; surface water drainage; conservation planning; transportation planning; appropriate assessment; other issues. Internal reports from the Transportation; Housing, Conservation and Drainage Planning Departments have been appended to the report.

7.2.3 I have reviewed and considered all of the documentation submitted by the planning authority relating to this case.

7.3 Consultation Meeting

7.3.1 A Section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 11th day of April 2018, commencing at 2.30pm. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting.

7.3.2 The main topics raised for discussion at the tripartite meeting were as follows:

- Architectural Heritage
- Development strategy for the site to include layout, connectivity, Part V proposals, childcare facility
- Infrastructural Matters- drainage
- Any other matters

7.3.3 In relation to architectural heritage, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- Demolition of non-original elements of existing Chesterfield House and proposal to develop area to north of existing property
- Proposals for existing summerhouse

7.3.4 In relation to development strategy, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- Height/scale/density of proposed apartment blocks in the context of the existing pattern of development in the area and in the context of existing Development Plan policy
- Planning history including extant permission on site
- Residential amenity in the context of possible/perceived impacts on existing residential properties, setbacks, site slope, landscaping and boundary treatments;
- Residential amenity in the context of separation distances between proposed blocks, in particular Blocks 7 and 8
- Connectivity to adjoining lands to facilitate access through neighbouring developments
- Part V in terms of, inter alia, location and number of proposed units, indicative costs, finishes
- Discussions regarding the provision of a childcare facility

7.3.5 In relation to the infrastructural constraints, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following

- Surface water drainage- as per report of Drainage Division, Planning Authority dated March 22nd 2018
- Groundwater conditions/underground streams in vicinity

7.3.6 In relation to other matters, An Bord Pleanála representatives sought further elaboration/discussion/consideration of the following

- Residential Quality Audit needs to show consistency with new Apartment Guidelines (2018)
- Clarification in relation to contours, consistency between all drawings- contour drawings need to be accurate and legible
- Clarification on whether this is to be a gated community
- Bats on site- liaise with Biodiversity Officer in Planning Authority

- Clarification in relation to treatment of area to front of proposed dwellings- need to show consistency with DMURS
- Safety issue in relation to pond
- Tree and hedgerow surveys

7.4 Conclusion

- 7.4.1 Based on the entirety of the information before me, it would appear that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 7.4.2 I have examined all of the information and submissions before me including the documentation submitted by the prospective applicants, the submissions of the planning authority and the discussions which took place at the tripartite meeting. I have had regard to both national policy, via the section 28 Ministerial Guidelines and local policy via the statutory plans for the area.
- 7.4.3 Having regard to the above, I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 6(7)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016, stating that it is of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act: **constitutes a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.**
- 7.4.4 I would also recommend that the prospective applicant be notified, pursuant to article 285(5)(b) of the 2017 Regulations, that specified information (as outlined hereunder) be submitted with any application for permission that may follow. I believe the specified information will assist the Board at application stage in its decision making process. I am also recommending that a number of prescribed bodies (as listed hereunder) be notified by the prospective applicant of the making of the application.

8.0 Recommended Opinion

The Board refers to your request pursuant to section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Section 6(7)(a) of the

Act provides that the Board shall form an opinion as to whether the documents submitted with the consultation request (i) constitute a reasonable basis for an application under section 4 of the Act, or (ii) require further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, **An Bord Pleanála is of the opinion that the documentation submitted would constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.**

Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission arising from this notification:

Pursuant to article 285(5)(b)(i) and (ii) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that the following specific information should be submitted with any application for permission:

1. An appropriate statement in relation to section 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016, that outlines consistency with the relevant development plan and that specifically addresses any matter that maybe considered to materially contravene the said plan, if applicable.
2. Additional drainage details for the site having regard to the requirements of the Drainage Division as indicated in their report dated 22/03/18 and contained in Appendix A of the Planning Authority's Opinion. Any surface water management proposals should be considered in tandem with any Flood Risk Assessment, which should in turn accord with the requirements of 'The Planning System and Flood Risk Management' (including associated

- 'Technical Appendices'). Additional details showing groundwater conditions including any underground streams in the vicinity should also be included.
3. Cross-sections at appropriate intervals, photomontages, a 3D model and any other information deemed relevant, illustrating topography of the site and showing proposal relative to existing development in the vicinity.
 4. Contour/site level map accurately and legibly showing levels across the site.
 5. Irrespective of what strategy is adopted in relation to the protected structure in Chesterfield House (having regard to inter alia, the Conservation Report contained within Appendix A of the planning authority's Opinion), the application should contain an architectural heritage protection rationale/justification for the chosen strategy. In the event that the prospective applicant maintains the proposal to demolish the non-original fabric of Chesterfield House, the application should also contain a detailed methodology for the protection measures proposed for the original fabric in the drawing room during the course of the proposed works.
 6. Supporting design rationale should be given to improving residential amenity for future occupants by demonstrating the maximisation of sunlight to apartments and addressing issues to do with daylighting, overlooking and overshadowing. Specific attention should be paid to ground floor units in Blocks 7 and 8.
 7. A site layout plan showing which, if any, areas are to be taken in charge by the planning authority
 8. Additional details in relation to Part V having regard to the requirements of the Housing Department as indicated in their report dated 20/03/18 and contained in Appendix A of the Planning Authority's Opinion.
 9. A site plan allowing for connectivity with adjoining lands, which includes for footpaths continuing up to the relevant boundaries
 10. Childcare demand analysis and likely demand for childcare places resulting from the proposed development

Pursuant to article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is informed that the following authorities should be notified in the event of the making of an application arising from this notification in accordance with section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016:

1. Irish Water
2. Department of Culture, Heritage and the Gaeltacht
3. Transport Infrastructure Ireland
4. National Transport Authority
5. An Taisce-the National Trust for Ireland
6. Heritage Council
7. Failte Ireland
8. An Comhairle Ealaíonn
9. Dun Laoghaire Rathdown County Childcare Committee

PLEASE NOTE:

Under section 6(9) of the Planning and Development (Housing) and Residential Tenancies Act 2016, neither the holding of a consultation under section 6, nor the forming of an opinion under that section, shall prejudice the performance by the Board, or the planning authority or authorities in whose area the proposed strategic housing development would be situated, of any other of their respective functions under the Planning and Development Acts 2000 to 2016 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

Lorraine Dockery
Senior Planning Inspector

30th April 2018