

An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-301098

Strategic Housing Development

10-year permission for 927 residential units (355 houses and 572 apartments), a childcare facility, 2 no. retail units, 1,458 car parking spaces, a section of the Clay Farm Loop Road, landscaping and associated works. The application site includes the possible linear earthworks (DU026-087), a Recorded Monument.

Location

Clay Farm, Ballyogan Road, Dublin 18.

Planning Authority

Dun Laoghaire Rathdown Co. Co.

Prospective Applicant

Viscount Securities

Date of Consultation Meeting

3rd April 2018

Date of Site Inspection

4th April 2018

Inspector

Tom Rabbette

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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, 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 is located to the south of Ballyogan Road in Dublin 18. The site forms part of a holding known as Clay Farm. The associated Clay Farm house is located to the west of the site but is outside of the designated site boundary. The site forms the second phase of development of an overall holding of some 34 ha, the subject site has a stated area of c. 20.5 ha. The permitted Phase 1 is located to the north of the site and construction works are on-going on that Phase 1 area.
- 2.2. The site is bounded to the south-east by a golf course, to the south-west by existing developed residential areas of Cruagh Wood and Stepside Park and to the north-west by undeveloped lands.
- 2.3. The site is approximately 11 km from the city centre. It is approximately 1.6 km from Junction 14 on the M50 to its north-west and 1.6 km from Junction 15 to the east. The Green Luas Line runs along the Ballyogan Road to the north of the site.

3.0 Proposed Strategic Housing Development

- 3.1. The proposal is for 927 residential units made up of 355 houses and 572 apartments. A mix of house and apartment types is proposed. The mix includes 3 and 4 bed terraced houses of various gross floor areas, some are to be two-storey and some three-storey. One, two and three bedroom apartments are also proposed and some of these will be duplex units. Sixteen apartment blocks are proposed and these range in height from three to six storeys.

- 3.2. The proposal includes a childcare facility, 2 retail units and 1,458 car parking spaces (surface and basement).
- 3.3. The associated site and infrastructural works include foul and surface water drainage, attenuation tanks, open space including playgrounds, a MUGA, exercise units, cycle spaces, landscaping, boundary walls, fences, internal roads, cycle paths and footpaths.
- 3.4. The proposal is being described as Phase 2 following on from Phase 1 as granted on the adjoining lands to the north, Phase 1 was granted permission under D15A/0247 (PL 06D.246601). That Phase 1 is currently under construction.
- 3.5. The proposal includes a section of the Clay Farm Loop Road from the Phase 1 area to the south western site boundary.

4.0 Planning History

TA0002: A SHD application by the applicant on the same site for the construction of 927 residential units, a childcare facility, 2 no. retail units, associated section of Clay Farm Loop Road and all associated site works was refused by An Bord Pleanála on the 12th January 2018 for one reason relating to storm water management and flood risk.

D15A/0247 (PL06D.246601): Development described as a 7-year permission for a residential development of 410 residential units and a childcare facility with all associated site works at Clay Farm, Ballyogan Road, D.18. The Board granted permission for the development subject to conditions. This development is to the north of the current proposed site and is referred to as Phase 1 of the development of the overall Clay Farm holding.

D06A/0531 (PL06D.223029): Development described as a ten-year permission to construct 714 residential units and all associated works at Clay Farm, Ballyogan, D. 18. The Board granted permission with conditions. The permission was never executed.

5.0 National and Local Planning Policy

5.1. 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 S.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' (March 2018)
- 'Design Manual for Urban Roads and Street'
- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices')
- 'Framework and Principles for the Protection of the Archaeological Heritage'
- 'Childcare Facilities – Guidelines for Planning Authorities'

5.2. Statutory Plan for the area

The operative plan for the area is the Dún Laoghaire-Rathdown County Development Plan 2016-2022. The site is zoned 'Objective A – to protect and/or improve residential amenity'. It is an objective of the p.a. to prepare a Local Area Plan for Ballyogan and Environs as indicated in Table 1.3.1 of the CDP, the site is located within the proposed LAP area. Development in and around the site is referred to in s.1.3.4.9 of the written statement. It is noted that Stepside-Ballyogan is one of the primary growth nodes from which a significant portion of the supply of residential units will derive up to the 2022 horizon as indicated in section 1.2.5 of the written statement of the CDP. The 'Clay Farm Loop Road' is listed as a 'six-year road objective' as per Table 2.2.5 of the CDP. The 'Enniskerry Road to Jamestown Park to Ballyogan to Leopardstown' is one of a number of identified greenway routes in section 4.2.2.7 of the written statement. The former Ballyogan landfill to the north-east of the site is to be developed as a new public park (Jamestown Park) as

indicated in Policy OSR9. Residential development standards are addressed in Chapter 8 of the CDP. The authority's Building Height Strategy is addressed in Appendix 9 of the CDP.

6.0 Forming of the Opinion

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 a brief detail on each of these elements hereunder.

6.1. Documentation Submitted

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. The information submitted sought to address, *inter alia*, the Board's reason for refusal on TA0002, the issues raised in the associated Board's Direction on TA0002 and additional matters referred to in the Inspector's Report on TA0002.

The information submitted included, *inter alia*, the following: a completed application form; a Planning Report; a Statement of Response to ABP's Decision in respect of Reg. Ref. TA0002; Statement of Consistency with Planning Policy; Environmental Report; Architectural drawings (by OMP) including a site location plan, a site survey plan, site layouts, taking in charge plan, plans, sections and elevations of proposed structures, document titled 'Accommodation Schedule & Housing Quality Assessment', a Design Statement, a document titled 'Part V: Social and Affordable', Pre-App Discussion Document; report titled 'Tree Survey, Aboricultural Impact Assessment and Aboricultural Method Statement'; landscaping documents (by BSM) including a Tree Survey Plan, Tree and Hedgerow Retention, Protection and Removal Plan, Landscape Masterplans, Planting Plan, Landscape Sections, Landscape Boundary Treatments, Neighbourhood Plaza and Loop Road Landscape Plan, Landscape Design Rationale Statement, Report for AA Screening; Engineering

Services Report; Site Specific Flood Risk Assessment; Bridge Hydraulic Analysis; Site Investigations; Construction Environmental Management Plan; Road Quality Audit; report titled 'Response to drainage related items in refusal by An Bord Pleanála', SuDS Audit; engineering drawings related to roads layout, signage, marking, sections, cycle parking bridge link, autotrack analysis; engineering drawings related to surface water drainage, foul sewer layout, watermain layout, SuDS detailed drawings, long term s.w. storage areas and attenuation, foul sewer sections, surface water sewer sections, Flood mapping, site investigations, schematic s.w. attenuation catchment layout plan, sub-catchment characteristics; Construction & Operational Phase Waste Management Plan; Utilities & Energy Report and drawings; Site Lighting Report and drawings.

I have reviewed and considered all of the above mentioned documents and drawings.

6.2. Planning Authority Submission

In compliance with section 6(4)(b) of the 2016 Act the planning authority for the area in which the proposed development is located, Dún Laoghaire-Rathdown County Council, submitted copies of their records 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 the 26/03/18.

The planning authority's 'opinion' included, *inter alia*, the following: reference to relevant planning histories; a description of the site and surrounding area, and reference to the statutory policy context. The planning authority state that they have no objections to the principle of the provision of the residential units. The planning authority report notes that the Inspector's Report on TA0002 accepted the proposed density, overall layout of the scheme, traffic and transport matters and the EIAR. The planning authority's opinion focuses on the updated proposals which seek to address the Board's reason for refusal, the additional notes included in the Board's Direction and the relevant points raised in the Inspector's Report on TA0002. In that context, the planning authority's report addresses the following: storm water management proposals; site specific flood risk assessment; open space provision; apartment design and layout; housing units adjacent to Stepside Park and Cruagh Wood; certain units north of the Loop Road; neighbourhood centre design; phasing

arrangements; vehicular access; parking; EIAR, and other outstanding matters. The report concludes with a list of items that require further details and amendments, these relate to: a revised phasing plan; road link to Cruagh Wood; site specific flood risk assessment; drainage issues raised in the p.a. Drainage Report; compliance with new apartment guidelines; a building lifecycle report; landscaping proposals; car parking provision; details of proposed gabions, matters pertaining to the finishes of the dwellings.

The planning authority submission contains the record of 2 no. s. 247 meetings held between the authority and the prospective applicant (post the Board's decision on TA0002). It also contains a number of in-house technical reports from the following: Municipal Services; the Transportation Planning Section, and the Housing Department.

All of the documentation submitted by the planning authority has been reviewed and considered by the undersigned as part of the opinion forming.

6.3. Consultation Meeting Consultation Meeting

A section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 3rd April 2018, commencing at 2:00 pm. 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. The main topics raised for discussion at the tripartite meeting were based on that agenda that contained the following issues:

1. The prospective applicant's response to the following:
 - the reason for refusal on TA0002;
 - the contents of the Board's Direction in relation to TA0002;
 - and issues raised in the Inspector's Report on TA0002.
2. The prospective applicant's response to the issues raised in the Planning Authority's Opinion in relation to the current strategic housing development proposal for the site.
3. Any other matters.

In relation to item 1 ABP sought further elaboration/discussion on: the reason for refusal, i.e. drainage issues; the Board Direction comments re. open space provision, and the issues raised in the Inspector's Report.

In relation to item 2 ABP invited the PA to further elaborate/discuss matters raised in their Opinion: phasing of the proposed development was highlighted as an issue for the prospective applicant's attention, consider how proposed attenuation measures are to be protected if they are delivered in phase 1, the PA indicated that they would like to see temporary access or possible opening indicated along red line boundary for a pedestrian/cyclist connection to Stepside Park. The prospective Applicant and PA discussed matters raised in the Drainage Planning report (Appendix B of the PA's Opinion).

In relation to item 3 ABP sought further elaboration/discussion on: capacity of schools in the area, as mentioned by 3rd party observers on TA0002, and proposed bin store arrangements for terrace units.

Both the prospective applicant and the planning authority were given an opportunity to comment and respond to the issues raised by the representatives of ABP. They were also invited to raise any outstanding issues. Those comments and responses are recorded in the 'Record of Meeting ABP-301098-18' which is on file. I have fully considered the responses and comments of the prospective applicant and planning authority in preparing the Recommended Opinion hereunder.

6.4. National Monuments Service submission

The Board consulted with the National Monuments Service (NMS) pursuant to section 6(10) of the Planning and Development (Housing) and Residential Tenancies Act 2016. The NMS submitted a letter (dated 29th March 2018) to An Bord Pleanála which recommends that the prospective applicant submit an archaeological impact assessment in order to provide a complete and up-to-date assessment of the archaeological impacts. Both the prospective applicant and the planning authority were provided with a copy of the letter from the NMS.

7.0 Conclusion and Recommendation

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.

I have examined all of the information and submissions before me including the documentation submitted by the prospective applicant, the submissions of the planning authority, the submission from the National Monuments Service and the discussions which took place at the tripartite meeting. I have had regard to both national policy, via the s.28 Ministerial Guidelines, and local policy, via the statutory plan for the area.

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.

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

An Bord Pleanála 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:

- (1) A response to An Bord Pleanála reason for refusal, and comments on the associated Direction, relating to Strategic Housing Application reg. ref. TA0002. (The prospective applicant may also give consideration to the issues raised in the Inspector's Report on TA0002.)
- (2) A phasing plan for the proposed development that has regard to, inter alia, delivery of the surface water infrastructure required to service phase 1 and, if applicable, proposals to protect the surface water infrastructure delivered as part of phase 1 during the construction period for the subsequent phases.
- (3) A building lifecycle report as referred to in section 6.13 of the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (Department of Housing, Planning and Local Government, March 2018).
- (4) Details in relation to the car parking provision to include the following: drawings that differentiate those spaces designated for the occupants of each residential unit and those designated for visitor parking; drawings that clearly indicate minimum dimensions of car parking spaces; location of designated disabled parking spaces, and proposals, if any, for the provision of electric vehicle charging points.
- (5) Justification and a rationale for the bicycle parking provision having regard to, inter alia, section 4.15 of the 'Sustainable Urban Housing: Design Standards

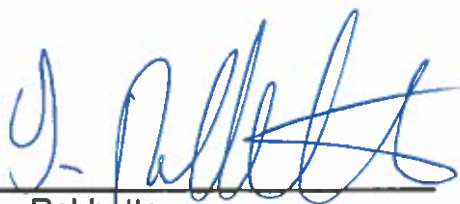
for New Apartments – Guidelines for Planning Authorities' (Department of Housing, Planning and Local Government, March 2018).

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. The Minister for Culture, Heritage and the Gaeltacht (for archaeological heritage protection and nature conservation)
2. The Heritage Council (for archaeological heritage protection and nature conservation)
3. An Taisce – the National Trust for Ireland (for archaeological heritage protection and nature conservation)
4. Inland Fisheries Ireland
5. Córas Iompair Éireann
6. Transport Infrastructure Ireland
7. National Transport Authority
8. Irish Water

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.



Tom Rabbette
Assistant Director of Planning
(Reporting Inspector on 301098) 16th
April 2018

