



An  
Bord  
Pleanála

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

### Inspector's Report on Recommended Opinion

**302461**

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<b>Strategic Housing Development</b>	184 residential units.
<b>Location</b>	RES 2 Site, Development Area 2 (Plot TC6) Cherrywood Planning Scheme, Laughanstown, Cherrywood, Dublin 18.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council.
<b>Prospective Applicant</b>	Hines Cherrywood Development Fund ICAV.
<b>Date of Consultation Meeting</b>	10 October 2018.
<b>Date of Site Inspection</b>	01 October 2018.

**Inspector**

**Stephen Rhys Thomas.**

## 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

The subject site is located on lands associated with the Cherrywood Planning Scheme. The site lies adjacent to Town Centre quadrant TC1 at the centre of the SDZ. The Green Line Luas runs to the east of the site and the Cherrywood Luas stop is approximately 50 metres away.

The site comprises disturbed ground with a steep topography. The site slopes upwards from the new Bishop Street to meet Tully Park. Long and rectilinear in shape, the site has considerable frontage to both Bishop Street and Tully Park. Bishop Street is a wide and straight street and terminates at Cherrywood Luas stop.

## 3.0 Proposed Strategic Housing Development

The proposed development which is subject of this pre-application consultation request comprises 184 residential units provided in a combination of houses, maisonette units and apartments on 3 Hectares as follows:

148 units in 4 apartment buildings between 3 and 5 storeys and 2 storey maisonettes:

- 1 bed apartments 31 units
- 2 bed apartments 101 units
- 3 bed apartments 16 units

36 houses:

- 4+ bedroom houses 10 units
- 4 bedroom houses 7 units
- 3 bedroom houses 19 units

Total % breakdown by unit:

- 1 bedroom 31 units (17%)
- 2 bedroom 101 units (55%)
- 3 bedroom 35 units (19%)
- 4 bedroom 7 units (4%)
- 5 bedroom 10 units (5%)

287 car parking spaces, 22 motorcycle spaces and 178 bicycle spaces

Open space provision – 0.316 Hectares (10% of total site area).

The site is located within a Strategic Development Zone.

The proposed net density is stated at 68 units per Hectare. Net developable area of 2.73 Hectares.

## 4.0 National and Local 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 S.28 Ministerial Guidelines are:

- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
- 'Design Manual for Urban Roads and Streets'
- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices')
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities - 2018

- 'Childcare Facilities – Guidelines for Planning Authorities'

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

## 4.2 Local Policy

The **Dún Laoghaire-Rathdown County Development Plan 2016-2022**, is the operative county development plan and contains general policies and objectives in relation to residential amenity standards. The site is located with the boundary of the Adopted Cherrywood Planning Scheme.

### **Cherrywood Planning Scheme**

The Cherrywood Planning Scheme document should be read in conjunction with the Approved Amendments 1 - 4 document following the approval by An Bord Pleanála in June 2017.

The site is located in an area designated as Development Area 2 within the 1<sup>st</sup> Growth Area, it is zoned Res 2 (density range of 45-70 units per hectare) and subject to a building height range of 2 to 3 floors. Table 2.11 Building Height Ranges, sets out the minimum and maximum building heights for the various locations of the plan, the site is Res 2 and the table details 2 – 5 storeys and maximum height of 16 metres. The site is located in Development Area 2 – Cherrywood and subject to Specific Objectives that relate to the Town Centre, some of which are as follows:

DA 10 The design and layout of the Town Centre shall address the following issues:

- In relation to ground levels, the change in levels between the surrounding road network and the Town Centre Link shall be designed in a manner that is attractive to the pedestrian;
- In relation to building heights, where a building addresses two streets, building height will be measured from the higher street.

The planning scheme also contains a number of detailed specific objectives, many of which apply to the site, some relevant objectives include:

PD 3 In Res2 plots the typology shall be predominantly own door units except for areas that require higher density (those fronting the Grand Parade, Castle Street and overlooking open space).

PD 9 To provide for principal frontages in each development plot to define strong streetscape elements, turn corners on public roads, and enclose and overlook amenity open space areas and green routes. These are identified on Map 2.4 and are indicative in length to allow for sufficient flexibility in breakages and access points.

PD 13 To ensure that frontage widths of individual buildings and massing allow for their successful integration into the streetscape.

PD 16 To ensure that appropriate building line set backs, on street parking and privacy strips are provided for in residential and commercial development.

PD 21 To allow building height within the range of storeys identified on Map 2.3. These heights have been informed by the characteristics of each site and are the maximum permissible on each development plot.

PD 23 It is an objective to encourage the use of 'adaptable' ground floor residential units with a greater internal floor to ceiling heights of 4 metres, along the Grand Parade and adjacent to Cherrywood Town Centre where increased overall building heights are proposed.

## 5.0 Planning History

Nearby sites:

- PA reference **DZ15A/0758**. Roads and infrastructure – Phase 1.
- PA reference **DZ15A/0813**. Tully Park, a 10 Hectare public park.
- PA reference **DZ17A/0862**. Town Centre quadrants – TC1, TC2 and TC4. 1,269 dwellings, 39,000 sqm office, 20,000 sqm retail, 30,000 sqm none-retail space library, health centre, 2 crèche and 2 hotels.
- PA reference **DZ17A/0714**. 241 dwellings and a crèche.

- PA reference **DZ18A/0458**. Primary school.
- PA reference **DZ18A/0499**. 146 apartments in four blocks on site TC5. No decision.

Overall SDZ lands:

- ABP reference **ABP-302223-18**. Amendments of the Cherrywood SDZ Planning Scheme relating to Sequencing and Phasing of Development (Chapter 7 of the Approved Planning Scheme 2014, as amended). No Decision.
- ABP reference **PL06D.ZE0002**. Amendments to the Cherrywood SDZ Planning Scheme 2014 relating to dwelling numbers in the Town and Village Centres and the sequencing of retail development in the Town Centre. Approved with conditions. June 2017.

#### 5.1.1. **Section 247 Consultation(s) with Planning Authority**

It is stated by the prospective applicants in the submitted documentation that a Section 247 pre-application consultation took place with the planning authority (05/07/18).

## 6.0 **Forming of an Opinion**

- 6.1.1. 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 a brief detail on each of these elements hereunder.

### **Documentation Submitted**

- 6.1.2. 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.
- 6.1.3. The information submitted included the following: Cover Letter, SHD Application Form, Response to Q7 and Irish Water Letter, Part V proposal, Planning Statement

and Statement of Consistency, Architect's Design Statement, A3 drawing booklet, Landscape masterplan and landscape design statement, engineering drawings, engineering services report, outline construction management plan and traffic and transport statement,

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

#### **Planning Authority Submission**

- 6.1.5. 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 28 September 2018.
- 6.1.6. The planning authority's 'opinion' included the following matters: a description of the site and surroundings, a brief overview of the proposed development, planning history, the zoning provisions of the Planning Scheme and any specific objectives for the area and a list of relevant national policy documents. The planning authority's comments included the following: the proposed residential density is acceptable, however building heights are at variance with the planning scheme objectives for the site; the proposed unit designs are broadly acceptable subject to minor amendments at ground floor and the provision of more own door access points, there is an unsatisfactory level of detail that has been omitted and should be supplied at application stage; urban form and the landscape design are acceptable but there should be measures to retain trees and incorporate car parking vents into the public realm; archaeology issues require assessment, details concerning AA screening have been omitted; transportation and drainage issues require further assessment, Part V proposals are part of an ongoing discussion process with the Housing Section.
- 6.1.7. Appendix B of the planning authority's opinion includes a report on consistency with the Planning Scheme prepared by the Cherrywood Development Agency Project Team (DAPT) and includes the following matters:
- The site is located within Development Area 2 in the First Growth Area. Even though the proposal will exceed the threshold for phase 1 by 294 units, sufficient



progress has been made to deliver strategic infrastructure, therefore it is consistent with the phasing strategy of the planning scheme.

- Not consistent with Specific Objective PD3 – own door access and active frontage.
- Minor infringement of section 2.7.3 private open space and dwelling houses.
- Section 2.8 - Car parking vent construction, car parking should be incorporated into the street that fronts Tully Park.
- Specific Objective PD 12 compliance required, shadow and daylight analysis, wind impact assessments are needed.
- Specific Objective PD16 and PD17 – in terms of building set back and private amenity space close to ramped access.
- Specific Objective PD21 Building Heights, the proposal breaks the height requirements for the site (2-3 floors and 16 metres max).
- Mainly due to a lack of sufficient information the following items require attention should an application be made - services on roofs, Archaeology, surface water drainage, road section details and requirements, cycle parking and movement strategy, travel plan, energy plan, operational waste management plan, trees and hedgerows, biodiversity and tufa springs.

The DAPT conclude that the proposal meets the requirements of the planning scheme in many areas, however, building height and other detailed design issues require amendment, further information and conditions are provided.

- 6.1.8. The planning authority conclude that the proposed development broadly accords with the Cherrywood Planning Scheme for the area, however, there are significant issues to do with building height that cannot be supported by the planning authority.

#### **Submission from Irish Water**

- 6.1.9. A submission was received from Irish Water and is appended to this report. In summary, the submission states that a Confirmation of Feasibility has issued and that the proposed development can be serviced subject to the commissioning of the water and wastewater infrastructure in the SDZ. The physical infrastructure is in place but is not yet vested in Irish Water, this process is ongoing.



## **Submission from the Department of Culture, Heritage and the Gaeltacht**

6.1.10. A submission was received from the Department of Culture, Heritage and the Gaeltacht and is appended to this report. The Department require the submission of an archaeological assessment when the application is submitted.

### **The Consultation Meeting**

6.1.11. A section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 10 October 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.

6.1.12. The main topics raised for discussion at the tripartite meeting were based on the Agenda that issued in advance and contained the following issues:

1. Cherrywood Planning Scheme - building heights, phasing and quantum.
2. Public realm - active frontage and building set back.
3. Landscape design - refinements.
4. Detail design – surface water and street sections.
5. Any other matters.

6.1.13. In relation to Cherrywood Planning Scheme - building heights, phasing and quantum, ABP representatives sought further elaboration/discussion on the building heights objectives contained in the Cherrywood Planning Scheme. The rationale for buildings greater than three storeys and the design response to the topography of the site were clarified. Specific attention was given to the site's topography, that the five storey buildings were only proposed on Bishop Street, and that the height of these buildings were in fact lower than the two/three storey houses fronting Tully Park. The planning authority maintained their position regarding the proposal's lack of accordance with the planning scheme, despite the design response being an acceptable one. The impact on the increased building height and the overall quantum of development proposed was explored in the context of phasing. Both the applicant and the planning authority were satisfied that the increase in unit numbers will not impact on the overarching objectives of the planning scheme, given that phasing requirements have been advanced. A clear and robust rationale is required

by the applicant to satisfactorily address why their proposal is acceptable in the context of the planning scheme requirements on height, quantum and phasing.

- 6.1.14. In relation to Public realm - active frontage and building set back, ABP representatives sought further elaboration/discussion on how the proposed development along Bishop Street meets the requirements of the planning scheme in relation to the provision of an active frontage and specifically own door access to units. In addition, the provision of a suitable set back along Bishop Street was queried and clarified in order to ensure the correct design parameters, of the Urban Design Framework are met. In order to address issues, the applicant should provide a detailed design rationale to show that alternatives have been considered or increase the number of access points as appropriate.
- 6.1.15. In relation to Landscape design - refinements, ABP representatives sought further elaboration/discussion on the detailed design of car park vents in order to ensure their satisfactory integration into the public realm. The requirement to provide visitor car parking was discussed and a more appropriate solution may be preferable to the front of conventional houses adjacent to Tully Park. More detail is required at application stage and the applicant should provide detailed drawings of all landscape proposals to ensure better and more thorough compliance with the planning scheme.
- 6.1.16. In relation to Detail design – surface water and street sections, ABP representatives sought further elaboration/discussion on the importance of providing adequate surface water proposals that are consistent with the planning authority's requirements and those of the planning scheme. Greater detail regarding street sections is required to ensure a uniformity of approach concerning the public realm in Cherrywood.
- 6.1.17. 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. Those comments and responses are recorded in the 'Record of Meeting 302461' 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.

## **7.0 Conclusion and Recommendation**

- 7.1.1. 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.
- 7.1.2. 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, submissions received from statutory consultees referred to under Section 6(10) of the Act 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.
- 7.1.3. 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.
- 7.1.4. 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**

- 8.1.1. 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.

8.1.2. Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, and submissions received from statutory consultees referred to under Section 6(10) of the Act, 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.

8.1.3. 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. Notwithstanding that the documents constitute a reasonable basis for an application, the prospective applicant should satisfy themselves that the building heights proposed provide the optimal urban design and architectural solution for this site (having regard to the wider design objectives of the SDZ). A justification/design rationale of the proposal in this regard should refer to the objectives in national and local planning policy to secure a suitable building height across the site in an area served by high capacity public transport, as well as to the existing and emerging context of the wider area. Material submitted should include but is not limited to: extensive photomontage and computer-generated images of views across the site, for example from Tully Park; detailed contextual drawings that incorporate proposed and permitted development in the vicinity, specifically on the southern side of Bishop Street and any other material the applicant decides will satisfactorily illustrate the design proposal.

Consideration should also be given to the possibility that the new s.28 guidelines on urban development and building heights would be material to a decision on the application having regard to the recently issued draft guidelines on the topic.

2. A report or reports that satisfactorily address all relevant objectives contained within the Cherrywood Planning Scheme and where divergence is proposed, in areas such as quantum and phasing, urban form and own door access, landscape and public realm design, a suitable and reasoned design rationale should be submitted.
3. Having regard to, inter alia, the specific wording relating to this development site and building height objectives, quantum and phasing, urban form and own door access, landscape, etc. contained in the Planning Scheme, the applicant should satisfy himself/herself that they can proceed with an application for the proposed development noting the provisions of section 9(6)(c) of the Planning and Development (Housing) and Residential Tenancies Act 2016. In the event that an application is made, the application documentation should clearly lay out the justification and rationale for the proposed development having regard to the above. The materiality or otherwise of any contravention of the statutory objectives pertaining to the site, should be fully addressed in the application documentation.
4. A report that specifically addresses the proposed materials and finishes and the requirement to provide high quality and sustainable finishes and details. Particular attention is required in the context of the prominent location within the Cherrywood Planning Scheme and the proximity to the Luas Green Line.
5. A life cycle report shall be submitted in accordance with Section 6.3 of the Sustainable Urban Housing: Design Standards for New Apartments (2018). In addition, the applicant shall ensure that advice provided by the guidelines in relation to the development management process (section 6.0) is followed.
6. Full and complete analysis and drawings that detail the impact of the proposed development on the residential amenity of future residents in relation to daylighting, overshadowing and overlooking. Specific attention should be paid to the separation distances between opposing blocks and the impact upon privacy and overlooking. Section 3.0 *Apartment Design Standards* of the Sustainable Urban Housing: Design Standards for New Apartments 2018, provides guidance in respect to these issues.
7. An Archaeological Assessment Report should be submitted

8. A site layout plan showing which, if any, areas are to be taken in charge by the planning authority.

8.1.4. Also, 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:

- Irish Water
- National Transport Authority
- Transport Infrastructure Ireland
- Department of Culture, Heritage and the Gaeltacht
- Luas Operator – Transdev Ireland
- Department of Education and Skills
- 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.



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Stephen Rhys Thomas  
Planning Inspector

19 October 2018