



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-302605-18

Strategic Housing Development

Demolition of existing premises,
construction of 112 no. build to rent
apartments (13 no. 1 bed, 99 no. 2
bed units), cafe/retail/ restaurant and
associated site works.

Location

Lands at the former Swiss Cottage,
Swords Road and Schoolhouse Lane,
Santry, Dublin 9.

Planning Authority

Dublin City Council

Prospective Applicant

Cinamol Ltd.

Date of Consultation Meeting

31st October 2018

Date of Site Inspection

26th October 2018

Inspector

Stephen J. O'Sullivan

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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 site has a stated area of 0.45ha. It lies c6km north of the centre of Dublin along the Swords Road, which is a major road, at its corner with Schoolhouse Lane, a minor road. It is occupied by a single storey building that houses a pub known as the Swiss Cottage. The Swords Road is characterised by commercial uses, generally in buildings that stand on their own plots set back from the street. Such a building stands on the adjoining plot to the south of the site. There is a parade of shops along the footpath on the Swords Road on the other side of Schoolhouse Lane to the north of the site. Two-storey houses are the predominant form of development off the main road. Such houses stand on the northern side of Schoolhouse Lane opposite the site, and to its rear. A major park has been developed at Santry Demesne, c200m north-west of the site.

3.0 Proposed Strategic Housing Development

3.1. It is proposed to clear the site and to erect a building with up to 6 storeys over a basement and a height of 21m over ground floor level. The building would be a perimeter block with frontage onto the footpath along the Swords Road. The building would step down to 4 storeys along the southern and eastern side of the block. There would be 3 retail/restaurant units at ground floor level along the Swords Road with a total floor area of 398m². The rest of the building would be residential, provided on a build-to-let basis.

- 3.2. The building would contain 112 apartments, comprised of 12 one-bedroom units between 49m² and 56m² in area, and 99 two-bedroom units between 65m² and 91m². 8 of the two-bedroom apartments would be below 73m² in area. There would be two rooms on the ground floor for communal services for residents with a combined floor area of 290m².
- 3.3. There would be a vehicular access from Schoolhouse Lane to the north which would serve the underground car parking and the bicycle parking at ground level. The total number of spaces for cars would be 34 with 168 spaces for bicycles.

4.0 Planning History

- 4.1. There is an extensive planning history on this site. The most relevant previous cases are –
- Reg. Ref. 2532/18 – In May 2018 the planning authority refused permission for a mixed use scheme on the site with 89 apartments, 2 shops and 2 restaurants in a 5 storey building. The two reasons for refusal referred to the failure to provide dual aspect for at least 33% of the apartments; and the height of the building which would result in an abrupt transition in scale and overlooking of the authorised houses to the east.
 - Reg. Ref. 3612/17 – In January 2018 the planning authority granted permission to demolish the warehouse on the adjoining site to the east along Schoolhouse Lane and to build 8 houses.
 - PL29N. 247121, Reg. Ref. 4211/15 – In January 2017 the board granted permission for a 3-storey building on this site to with a supermarket, offices and other commercial uses. The planning authority had decided to grant permission.

5.0 Policy

5.1. National Policy

The government published the National Planning Framework in February 2018. Objective 3b is that 50% of new homes in cities would be within the existing built up area. Objective 13 is that, in urban areas, planning and related standards in

particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected. Objective 35 is to increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights

The applicable section 28 guidelines include -

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
- Design Manual for Urban Roads and Streets'
- Sustainable Urban Housing: Design Standards for New Apartments (2018), including SPPR 7 which states that applications for build-to-rent schemes must be described as such in public notices and accompanied by proposed legal agreements that they would remain owned and operated by institutional entities for a period of not less than 15 years, as well as by proposals for communal facilities for residents, and SPPR 8 which states that such development would not be subject to requirements about dwelling mix, the number of units per core or the exceedance of floor areas by 10% that would otherwise apply, that requirements for private amenity space and storey should be applied flexibly, and that car parking should be minimal.
- Childcare Facilities – Guidelines for Planning Authorities
- The Planning System and Flood Risk Management (including associated Technical Appendices).

5.2. Dublin City Development Plan 2016-2022

The larger part of the site is zoned under objective Z3 for neighbourhood facilities. A smaller part at its north-eastern corner is zoned Z1 – Residential. Section 16.7.2 of the plan sets a height limit of 16m in this area. Table 16.1 sets a maximum car

parking standard in this area of 1.5 spaces per dwelling and 1 space per 75m² of retail or similar use.

6.0 Forming of the Opinion

6.1. Documentation Submitted

The prospective applicant submitted extensive documentation including drawings of the proposed development and –

- A Statement of Consistency
- A Statement of Material Contravention
- A Community Audit
- A Housing Quality Assessment
- A Landscape Report
- An Environment Report
- An Appropriate Assessment Screening Report
- An Infrastructure Design Report
- A Site Specific Flood Risk Assessment
- A Traffic and Transport Assessment
- An Outline Construction Management Plan
- A Waste Management Plan
- A Sunlight Analysis
- A Residential Life Cycle Report
- A Noise Report
- An Arborist Report
- Photomontages.

The statement of material contravention says that the height of the proposed building would materially contravene the city development plan. It states that this is justified by the National Planning Framework and the location of the site in the inner suburbs

close the city centre, the Airport and other employment hubs. Reference is made to objectives 13 and 35 of the NPF. The site is on a public transport corridor and within 500m of a bus stop. The statement also refers to the draft guidelines on building height issued by the minister. The reduced height of the building along its southern and eastern sides respects adjacent housing. The proposed development would provide an appropriate edge for the Swords Road. The density of the development would be in keeping with the Guidelines for Sustainable Residential Development.

The statement of consistency submitted by the prospective applicant provided some details of the operation of the proposed built-to-rent model in accordance with the 2018 apartment guidelines. It noted that some units would not have outdoor amenity space and some rooms would not meet BRE guidelines for natural light. It states that the 2018 guidelines allow a case to be made from any departure on the standards for natural light. The statement says that the proposed high density development in an urban area would be in keeping with the NPF. The apartment sizes would be acceptable for build-to-rent units under the 2018 apartment guidelines, for which the additional 10% overall space requirement does not apply. 50% of the apartments would have dual aspect. The operation and management of the scheme would comply with the requirements of the 2018 guidelines for build-to-rent schemes. The statement also refers to the draft guidelines on building height, the 2009 guidelines on sustainable residential development in urban areas; and DMURS. It states that a build to rent scheme would not generate demand for childcare places. The site is in flood zone C under the terms set by the 2009 flood risk management guidelines. The proposed development would comply with the zonings of the site under the city development plan and the plot ratios and site coverage factors that apply to them. It would not comply with the height restriction of 16m that applies to the outer suburbs. It would comply with the bicycle parking standards. It would not provide 10% of the site as public open space, but the scheme is close to the major park at Santry Demesne.

6.2. Planning Authority Submission

The planning authority noted that the height of the proposed building would materially contravene the limit of 16m set down in the development plan for suburban areas. Nonetheless the proposed development appears to be broadly consistent with the proper planning and sustainable development of the area,

provided certain issues were addressed, including the provision of adequate natural light for the apartments and the internal courtyard, car parking, and the possible impact of on proposals to improve bus facilities along the Swords Road under BusConnects. The submission included the record of three meeting with the prospective applicant under section 247 of the planning act. The Water Services Division of the council submitted a report under a separate sheet stating that the proposed surface water drainage proposals were not acceptable.

6.3. Other submissions

Irish Water stated that it had issued a confirmation of feasibility in respect of 135 units on this state. The Department of Culture, Heritage and the Gaeltacht stated that it agreed with the report which stated that the monitoring of groundworks would be the appropriate mitigation of the archaeological potential of the site.

6.4. The Consultation Meeting

A section 5 consultation meeting took place at the offices of the board at 1430 on Wednesday, 31st October between representatives of the board, the planning authority and the prospective applicants about the proposed development. A record of the meeting was made and is available. The main topics discussed at the meeting were –

- i. Urban design, including the impact of the proposed development on the character of the area and the height of the proposed building relative to provisions of the development plan
- ii. The standard of amenity for occupants, including compliance with the 2018 Apartment Design Guidelines, the ongoing management of the scheme and its communal facilities, and the provision of adequate natural light for the proposed apartments and open spaces
- iii. Impact on the amenities of adjoining properties
- iv. Drainage and water supply
- v. Access, including possible implications for works to improve public transport facilities along the Swords Road under BusConnects

vi. Any other issues

- 6.5. With regard to item i) the prospective applicant stated that the proposed height was justified by the need to provide development at a sufficient density for this urban site in accordance with the National Planning Framework and the draft Guidelines on Building Height, notwithstanding the breach of the 16m limit set down on the city development plan. Reference was made to bus corridor along the Swords Road and the proposals for its improvement, as well as to the accessibility by sustainable transport modes to concentrations of employment and services in the city centre, the airport, DCU and Beaumont Hospital, as well as to the proximity of local facilities at the Omni Centre and at Santry Demesne. The scale and design of the project reflected the designation of a service centre along both sides of the Swords Road under the Z3 zoning and the permission for a 5 storey development across the road from the site that was granted this year. The proposed development would be in keeping with the evolving character of this area, which would be likely to include re-development on Z6 zoned land to the west as well. The planning authority noted the arguments made by the prospective applicant, but stated that it was bound by its development plan. A review of the extent of Z6 lands was underway, but it should not be assumed that it would result in a change in the zoning of the land to the west of the site.
- 6.6. With regard to item ii), the prospective applicant stated that the proposed development was intended to be a permanent rental scheme, with a management company taking control of the building and offering leases for individual residents for varying periods of between a year and four years. The proposals would provide space for variety of amenities to residents in the communal rooms on the ground floor and in the open spaces on the roof terrace and in the courtyard. The installation of sprinkler systems would allow better amenity within apartments through the omission of the hallway that would otherwise be required. The board's representatives noted the improvement in the internal layout of the apartments that this would facilitate. The planning authority requested clarity in any application as to how the communal facilities would be used and their adequacy, and confirmation that any changes in their location within the scheme would not result in a diminution in their scale. The prospective applicant accepted that certain rooms within

apartments on the lower floors would not meet the standards set in the BRE guidelines, and that parts of the internal courtyard would have limited sunlight at some times of the year, but stated that the provisions of the guidelines needed to be balanced with the need to provide an urban form of development and the range of amenities that would be provided for residents of the scheme. The planning authority replied that it understood the need for such balance, but a concern remained about the amenity provided within the courtyard for what would be a residential scheme.

- 6.7. With regard to item iii) the prospective applicant stated that the layout of the proposed development had been designed with due regard to the amenities of neighbouring properties, with a setback of height along its eastern side. The presence of a commercial property immediately to the south along the Swords Road, the length of the gardens behind the houses to the south of the site on Magenta Crescent and their relative orientation means that there is likely possibility of the proposed development affecting residential amenity due to overshadowing or overlooking. The daylight analysis indicated that there may be some shadow cast on the ground floor windows on the front of the student residences at Schoolhouse Lane, but this is not likely to be significant. The height of the eastern side of the proposed building was stepped down and its third floor stepped back to achieve a separation distance of 30m from the houses to the east of the site of Magenta Crescent at that level. The balcony had been omitted from one of the apartments there to avoid overlooking. The planning authority indicated that it was satisfied by the measures to protect the amenities of the neighbouring properties. The board's representatives noted that windows from living rooms as well as bedroom would be overlooking the gardens on the eastern site boundary. The prospective applicant indicated that a re-arranged layout could address this matter.
- 6.8. With regard to item iv) the prospective applicant stated that it could meet the concerns regarding the proposed surface water drainage measures. The board's representatives advised liaison with the relevant staff of the council on the matter prior to the submission of any application.
- 6.9. With regard to item v), the prospective applicant stated that they had consulted with the NTA and that the setback of the front of the proposed building should be able to accommodate the proposed bus and cycle lanes that are to be proposed along this

part of the Swords Road. The board's representatives advised that the NTA would be consulted on any application and that consultations should be continued with them. With regard to parking, the prospective applicant stated that it was confident that the rate of 0.3 car parking spaces per apartment would meet the likely demand given the accessibility of the site by public transport and the range of services and employment centres to which it was linked, and experience of similar schemes in the UK. The planning authority expressed reservations over the restricted amount of parking for a suburban site and the risk of parking on residential streets in the vicinity.

- 6.10. With regard to item vi) the prospective applicant sought clarification of the requirement of SPPR 7 of the 2018 apartment design guidelines, including the need to specify in the notices of an application that the scheme for build-to-rent and the needs to provide a proposed covenant or legal agreement to it would remain owned and operated by an institutional entity for a minimum period of not less than 15 years. There was discussion as to whether the stipulation that the period of the covenant be at least 15 years implied that the status of a build-to-rent scheme would be time limited. The planning authority indicated that such covenants would normally be made with it as the body responsible for enforcement.

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 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 all of the above, I recommend that further consideration and/or possible amendment of the documents submitted are required at application stage in respect of the elements that are set out in the Recommended Opinion below.

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:

requires further consideration and amendment in order to constitute 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

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 **requires further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.**

In the opinion of An Bord Pleanála, the following issues need to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could

result in them constituting a reasonable basis for an application for strategic housing development:

1. Further consideration of the documents as they relate to the height and design of the proposed development, which should have regard to the existing and the emerging character of the area including the context established by authorised developments on adjacent sites, and to the provisions of the development plan including those relating to height. A justification is required for the proposal to materially contravene the provisions of the development plan.
2. Further consideration of the documents as they relate to the standard of amenity that would be afforded to the occupants and neighbours of the proposed development. The consideration should relate to the nature, extent and quality of the open space that would be provided to residents; to the size, use, quality and management of the communal facilities that would be provided to residents; and to the protection of the privacy of neighbouring residential properties, particularly those on Magenta Crescent adjoining the eastern boundary of the site.
3. Further consideration of the documents as they relate to the drainage of the site, having regard to the comments made by the relevant section of the planning authority about the proposals for stormwater drainage. This should be informed by further consultation between the prospective applicant and the planning authority on the matter, and the nature and extent of any outstanding issues on the topic should be clearly described in the documentation submitted with the application.
4. Further consideration of the documents as they relate to the treatment of the frontage of the site onto the Swords Road, having regard to status of that road as a public transport corridor and the proposals for its improvement under the Bus Connects project. This should be informed by further consultation between the prospective applicant and the National Transport Authority, and by the need to provide adequate facilities for public transport, pedestrians and cyclists along the Swords Road.

5. Further consideration of the documents as they relate to compliance with various planning policies, which should ensure that they provide specific information about the proposed development and that they avoid unnecessary repetition or generalised statements.

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. National Transport Authority
3. Transport Infrastructure Ireland

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. Detailed proposals for the management and operation of the proposed development as a 'Build-to-Rent' in accordance with Specific Planning Policy Requirement No. 7 of the 2018 Guidelines on Design Standards for New Apartments, including detailed proposals for the provision and management of support facilities, services and amenities for residents.
2. A proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains in use as Build- to-Rent accommodation, and which imposes a requirement that the development remains owned and operated by an institutional entity and that similarly no individual units are sold or rented separately. The proposed agreement shall be suitable to form the basis for an agreement under section 47 of the planning act between the planning authority and the owner of the site and it shall bind the owner and any successors in title for a minimum period of at least 15 years.
3. A mobility management strategy which shall be sufficient to justify the amount of parking proposed for cars and bicycles.

4. A housing quality assessment which provides specific information regarding the proposed apartments and which demonstrates compliance with the various requirements of the 2018 Guidelines on Design Standards for New Apartments, including its specific planning policy requirements.
5. A Daylight/Sunlight analysis, showing an acceptable level of residential amenity for future occupiers and neighbours of the proposed development, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties.
6. A draft construction management plan and
7. A draft waste management plan.

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.



Stephen J. O'Sullivan

Planning Inspector

14th November 2018