



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-302802-18

Strategic Housing Development	518 dwellings consisting of 315 houses and 203 apartments, and a creche
Location	Boherboy, Saggart. Dublin 24
Planning Authority	South Dublin County Council
Prospective Applicant	Durkan Estates Ltd. and Kelland Homes Ltd.
Date of Consultation Meeting	28 th November 2018
Date of Site Inspection	18 th November 2018
Inspector	Stephen J. O'Sullivan

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 17.6ha. It consists of two fields under pasture which slope down from south to north. It lies c14km south-west of the centre of Dublin and c4.5km west of the centre of Tallaght. The northern end of the site is c500m south-west of the Luas stop and local centre at Fortunestown. The adjoining land to the north and east of the site has been developed for housing at the Carrimore and Corbally estates respectively. There is a stream and ditch on the eastern site boundary between with the Corbally Estate. There is a hedge on the northern site boundary between it and an street in the Craigmore estate. The north-eastern corner of the site adjoins public open space between the two estates. A golf course was laid out on the adjoining land to the west. The southern site boundary has c300m frontage onto the Boherboy Road, which is a rural road without footpaths, lighting, hard or soft margins. There are some one-off houses along that road. The adjoining Corbally Estate abuts that road but does not have access to it. The road has a junction with the N81 Blessington Road c400m east of the site boundary. That road has junction with the N82 Citywest Road, which is an urban road, c640m east of the current site. The land to the south of the Boherboy Road is agricultural.

3.0 Proposed Strategic Housing Development

3.1. It is proposed to build 518 homes consisting of 315 houses and 203 apartments. The housing mix is as follows –

	1 bed	2 bed	3 bed	4 bed	5 bed	Total
Houses	-		170	145	-	315
Apts/Duplex	50	115	38	-	-	203
Total	50	115	208	145	-	518

3.2. It is also proposed to provide a creche of 506m². The gross floor area of the entire development is given as 55,246m².

3.3. There would be two accesses from the Boherboy Road to serve the development. The site layout plan shows potential future road links to existing streets in the Carrigmore Estate to the north and the Corbally Estate to the east. It also shows a pedestrian and cycle access to Carrigmore Green and another to the open space to the southeast of the site.

4.0 Planning History

4.1. Reg. Ref. SD15A/0388, PL06S. 247074 –. The board refused permission on the 7th December 2016 for a development of 216 houses on a site of 8.16ha that is part of the current site. Access to that development would have been from the Boherboy Road. There were two reasons for refusal. The first stated that the board was not satisfied that the site would be suitable for development having regard to the absence of a site specific flood risk assessment. The second reason stated that the proposed development would not comply with policies in favour of high quality design set out in the sustainable urban residential guidelines, DMURS, the development plan and the local area plan. The board's direction also stated concerns about the lack of connectivity to the Luas stop and local centre at Fortunestown, the low density of the development and the generic and repetitive design of the houses, but stated that these would be new issues in the context of the appeal.

5.0 Policy

5.1. National Policy

The government published the National Planning Framework in February 2018. Objective 2a is that half of future development will be focussed on the five cities and their suburbs. Objective 3a is that 40% of new homes would be within the footprint of existing settlements. Objective 27 is to ensure the integration of safe and convenient alternatives to the car into the design of communities. Objective 33 is to prioritise the provision of new homes where they can support sustainable development at an appropriate scale.

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'
- Guidelines for Planning Authorities on Urban Development and Building Heights, 2018
- Sustainable Urban Housing: Design Standards for New Apartments (2018),
- Childcare Facilities – Guidelines for Planning Authorities
- The Planning System and Flood Risk Management (including associated Technical Appendices).

5.2. Local Policy

The South Dublin Development Plan 2016-2022 applies. The site has a land-use zoning objective "A1 – to provide for new Residential Communities in accordance with approved Area Plans". The land use zoning map provides that the site is zoned for new residential communities in accordance with approved area plans. There is a road objective contained within this map (6-year objective) for routes running east-west and north-south through the site.

The Fortunestown Local Area Plan 2012-2018 applies. Section 6.4 refers to Framework 4: Boherboy Neighbourhood and provides that "in order to incorporate the valuable heritage features that occupy Boherboy and respond to the rural

character of the surrounding area, development of the Boherboy Neighbourhood will largely take the form of low density housing set amongst green corridors and parkland. The site comprises all of this neighbourhood. Section 6.4.1 deals with accessibility and movement. It states that development may commence at the southern end of the neighbourhood with access from Boherboy road. There is an objective BN1 that the first phase of development in the Boherboy Neighbourhood shall include for through routes to the Carrigmore and Saggart Abbey estates in a manner that provides indirect access from the Boherboy Neighbourhood onto Fortunestown Lane, to the Fortunestown and Saggart Luas stops and onto Citywest Avenue. Section 6.4.3 refers to density and land use. It states that the lands shall be developed at densities between 30dph and 50 dph, and that 85% of units shall be own-door houses and the overall average floor area of units shall be at least 110m² . Section 6.4.4 refers to green infrastructure and states that the stream on the eastern edge of the lands shall be incorporated into a biodiversity strip at least 10m wide on each side that shall cater for a pedestrian/cycle path. Section 6.4.5 states that housing should be no more than 2 storeys high. A layout plan for the lands shows a reservation for a school site. The phasing scheme at section 8.1 of the LAP indicates that the Boherboy neighbourhood could accommodated 566 dwellings.

6.0 Forming of the Opinion

6.1. Documentation Submitted

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

- A Planning Report and Statement of Consistency
- A Statement of Compliance with DMURS
- An Engineering Report
- A Site Specific Flood Risk Assessment Report
- Landscape Plan

6.2. Statement of consistency

The statement asserts that the submission of a site specific flood risk assessment and the revised layout, density, mix of types, road hierarchy and location and the

configuration of open space address the reasons for the board's refusal under PL06D. 247074. The two prospective applicants own separate parts of the site. The net density of the proposed development is 38.8dph, with the denser parts on the lower land closer to the local centre. The calculation of the density excludes the school site and the larger areas of open space. The proposed development includes cycle/pedestrian links to the district park and the Carrigmore Estate while the central linear open space would retain hedgerows where feasible. The proposed buildings heights of 2 and 3 storeys are in keeping with the limits in section 5.5.4 of the LAP. 55% of the proposed apartments are dual aspect. 4 major areas of public open space would occupy 3.08ha or 17% of the site. Pedestrian and cycle connections would be provided to the district park, while the site layout allows for vehicular connections to the Corbally and Carrigmore estates. There would also be a footpath along Boherboy Road. A gravity sewer would be laid for 1,130m along the public road to serve the development. A connection would be taken from the water main in the Boherboy Road. A surface water drainage system has been designed in keeping with SuDS principles. The phasing of the development would commence with 204 houses on the southern part of the site as well as the connections to the district park. The rest of the houses and the creche would be in phase 2 while the apartments would be in phase 3. It is proposed to provide 53 units for social housing under Part V. The applicant will be accompanied by an EIAR, but a AA screening report is submitted which concludes that the proposed development would not be likely to have any significant effect on any European site.

The statement of consistency states that the development would be in keeping with the objectives of the National Framework Plan. It would be in keeping with the applicable guidelines issued by the minister under section 28 of the planning act. A statement of compliance with DMURS is submitted, as is a site specific flood risk assessment in accordance with the guidelines on that topic which demonstrates that the site would meet the justification test. .

The proposed development would comply with the zoning of the site and the various objectives and standards of the development plan. The proposed net residential density of 38 dph is in keeping with national policy and the provisions of the Local Area Plan. The achievement of a reasonably density with sufficient open space on the site including the riverside park, along with the reservation of the school site,

requires the provision of more apartments than envisaged under the Local Area Plan. The site layout allows for 1.2ha to be reserved for a school site in accordance with objective BN5 of the local area plan. The development would provide the biodiversity strip and path along the stream on the eastern site boundary sought by the Local Area Plan. The proposed layout follows a grid format and provides for connectivity and permeability. An account is given of the various measures required under the phasing scheme in section 8.2 of the LAP and their progress to date.

6.3. Planning Authority Submission

The submission notes that the proposed density of 39dph is at the upper end of the range supported by the LAP subject to obtaining vehicular access through the Carrigmore Estate and pedestrian access through the district park. A 10m biodiversity strip is required along the stream at the eastern edge of the site. A standard of 15% public open space is required. Connectivity to the district park is important and consideration should be given to the provision of a second pedestrian access to it. The proportion of apartments is above the maximum of 15% specified in the LAP. Details of walking distances to the Luas or landmark junction would be required under the LAP. Community floorspace should be provided in accordance with the requirements of the LAP. The phasing requirements of the LAP require consideration with the pedestrian/cycle path along the stream in the biodiversity strip should be provided in the first phase of development on these lands. Section 8.1 of the LAP allows development to begin on these lands at the southern end with access from the Boherboy Road. Connectivity to the north-east is important and roads should be built up to the boundary.

The submission stated that the timeframe for response prevented consultation with the internal departments of the council, but that officials from the Roads, Drainage and Architects Sections had attended the section 247 meeting with the prospective applicants. The record of that meeting indicates that the council's Roads Section stated the importance of links to the Carrigmore and Corbally Estates as set out in the LAP and that a footpath would need to be provided along the Boherboy Road.

6.4. Other submissions

Irish Water made a submission stated that it had issued a confirmation of feasibility in respect of 520 residential units on the site

6.5. The Consultation Meeting

A section 5 consultation meeting took place at the offices of the board at 1430 on Wednesday, 28th November 2018 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. The safety of road users, having regard to the existing condition of Boherboy Road and the additional use of that road which the proposed development might generate
- ii. Water supply and drainage, including flood risk assessment having regard to reason no. 1 of the refusal of permission under PL06S. 247074, Reg. Ref.SD15A/0388.
- iii. Urban Design and the integration of the proposed development into the existing urban fabric of, having regard to reason no. 2 for the previous refusal and the notes attached to the board's direction, as well as to the Local Area Plan for Fortunestown, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued in 2009, and DMURS.
- iv. Architectural Design
- v. Residential amenity, including compliance with the 2018 Guidelines on the Design Standards for New Apartments
- vi. Any other issues

With regard to item i), the planning authority stated that the Boherboy Road needed significant upgrading and that it would be hard to provide a footpath along it and maintain the hedges and trees there. The council had no imminent proposals to carry out such works and they are not an objective of the county development plan. The prospective applicant stated that the road did not have appropriate

infrastructure. The submitted documents showed an indicative footpath on the road towards the bus stop at the eastern end of the road. However the more important pedestrian link would be towards the local centre and Luas stop to the north and such a link would be provided in the first phase of the proposed development. The submitted documents show the sightlines that could be provided on the Boherboy Road. The proposals involve the removal of hedges and a footpath within the site boundary. The prospective applicant stated that a contribution could be payable to the construction of a footpath along the rest of the Boherboy Road and had consulted with the Roads Section of the council on the issue. The previous application had included proposals to address traffic congestion on the surrounding road network. The speed limit on this part of the Boherboy Road is 60kph, although not all traffic complies with this restriction. The speeds along the road would fall as it becomes more urban and so the required sightlines at the accesses to the development would be less. It was reiterated that the main desire line for pedestrian and cycle movement would be towards the north.

With regard to item ii), the prospective applicant referred to its submission of a site specific flooding flood risk assessment report. The drainage design follows SuDS principles and the storage and attenuation capacities had been agreed with the relevant section of the council. The proposed layout followed the recommendations of the flood risk assessment by avoiding building in the areas where floods had been recorded or along preferential flow paths across the site. The representatives of the board stressed the need for the prospective applicant to consult with the council on the matter prior to the submission of any application, with any outstanding matters clearly described in the accompanying documentation, given the restricted scope to request further information in the course of an SHD application.

With regard to item iii) the planning authority said that the provision of a link to the adjoining park should be straightforward. However the provision of other links would be difficult to achieve and could not be guaranteed. The board's representatives indicated that the achievement of pedestrian links to the north towards the local centre and Luas stop would be a crucial element of any development. The prospective applicant stated that it understood that the Carrigmore Estate had been taken in charge by the council and that it was always its intention to provide links to it and to the local park that has now been completed and opened. There was a strip of

land between the eastern site boundary and the Corbally Estate that was in third party ownership. The proposed development now included the entire area of the Boherboy neighbourhood identified in the LAP and the internal layout of streets adheres to that plan with a central linear open space forming a spine for the neighbourhood. Independent accesses from the Boherboy Road were provided for each landholding, but a clear hierarchy of streets and spaces was set out in keeping with the principles of DMURS. The prospective applicant stated that the provision of future accesses to adjoining urban areas was part of the normal process of development and would likely be provided when there was demand from residents for them, and that the board was obliged to provide a full account of its reasons for a refusal of a planning application. The representatives of the board stated that each application had to be considered on its own merits and that it would be unwise to assume that the decision on any previous application would preclude or constrain the proper assessment of any material issue on a subsequent application. The prospective applicant stated that the net density of the proposed development was 39 dph, based on the exclusion of the school site, wayleaves and landscaped buffers required under the LAP. The planning authority stated that the retention of the hedgerow that ran north-south in the centre of the site would require adequate protection measures during construction, and referred to a previous development authorised by the board under PL06DS. 244732 where this had been problematical. The prospective applicant noted that the condition of this hedgerow was variable.

With regard to item iv) the prospective applicant stated that the development would comply with the 2018 apartment design guidelines. The representatives of the board stated that this should be demonstrated in the documentation accompanying any application.

With regard to item v), the planning authority stated that it was bound by the provisions of the LAP. The prospective applicant referred to the length of time that the development of the site was taking. It had been cognizant of the reasons for the previous refusal on the site and was now proposing a wider range of housing types with apartments and dual fronted duplex units. Consideration could be given to a wider range of heights for the proposed apartment blocks to increase visual interest there but that the current proposals complied with the LAP's height restrictions. The board's representatives referred to other cases where the board had granted

permission for higher buildings and a greater proportion of apartments that was provided for under the Fortunestown LAP, and referred to national policies in favour of higher residential densities and the draft guidelines on building heights.

With regard to item iv), the prospective applicant stated that it would be connecting to a foul sewer that had been taken in charge and so would not require third party consent. The planning authority stated that a unified approach would be required to the provision of open space across the two landholdings, and the prospective applicant stated that an agreement on the matter could be submitted at application stage. The prospective applicant stated that the scale of the development meant that it would require an EIAR.

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 provision of pedestrian and cycle links from the proposed development towards the local centre and Luas stop at Fortunestown to the north-east of the site. The

submitted documentation should be sufficient to show that proper links would be provided to the Carrigmore estate and the existing open space adjoining the site upon the initial occupation of the proposed homes. If links are not proposed to existing roads, the submitted documentation should indicate how the proposed links can facilitate movement by pedestrians and cyclists after dark and whether such movement would be constrained by gates or barriers. Cycle links should be designed in compliance with the National Cycle Manual issued by the NTA.

2. Further consideration of the documents as they relate to the provision of safe vehicular access to the Boherboy Road. The submitted documentation should clarify the extent of works to that road that would be part of the proposed development and specify whether any other works would be required to provide a safe vehicular access to the road and who would be responsible for their completion.
3. Further consideration of the documents as they relate to the density of the proposed development. The documentation should indicate the net residential density calculated in accordance with Appendix A of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009. Open spaces that would mainly serve the occupants of the proposed housing should be included in the net site area for this purpose. The documentation should demonstrate how the proposed development would comply with the advice at section 5.8 of those guidelines regarding sites within 1km of a light rail stop. If it is proposed to materially contravene the provisions of the local area plan, then a statement justifying the contravention is required to be submitted.
4. Further consideration of the documents as they relate to the heights of the proposed buildings. The submitted documentation should have regard to the Guidelines for Planning Authorities on Building Heights and Urban Development, 2018 including its specific planning policy requirements, and the need to provide a sufficient density of development on the site and a high standard of architectural and urban design particularly with respect to the proposed apartment buildings. If it is proposed to materially contravene the

provisions of the local area plan, then a statement justifying the contravention is required to be submitted.

5. Further consideration of the documents as they relate to the proposed housing mix. The submitted documentation should demonstrate that the proposed housing would meet the needs of a suitably wide proportion of the community. If it is proposed to materially contravene the provisions of the local area plan, then a statement justifying the contravention is required to be submitted.

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
4. Department of Arts, Heritage and the Gaeltacht (Nature Conservation)
5. Inland Fisheries Ireland
6. An Taisce
7. Heritage Council

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. A Site Specific Flood Risk Assessment Report. The prospective applicant is advised to consult with the relevant technical section of the planning authority prior to the completion of this report which should describe this consultation and clarify if there are any outstanding matters on which agreement has not been reached with regard to surface water drainage.
2. A statement of compliance with the applicable standards set out in DMURS, and a mobility management plan which justified the proposed provision of parking for cars and bicycles.

3. 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.
4. A building lifecycle report for the proposed apartments in accordance with section 6.13 of the 2018 guidelines.
5. A phasing scheme for the development which would indicate how open space and access to serve the proposed houses would be provided in a timely and orderly manner
6. Proposals for compliance with Part V of the planning act.
7. A draft construction management plan
8. 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

17th December 2018