



An  
Bord  
Pleanála

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

### **Inspector's Report on Recommended Opinion ABP-303256-18**

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<b>Strategic Housing Development</b>	10 year permission for 485 residential units and creche
<b>Location</b>	Blackrock Road, Blackrock, Dundalk, Co. Louth
<b>Planning Authority</b>	Louth Co. Council
<b>Prospective Applicant</b>	Kingsbridge Consultancy Ltd.
<b>Date of Consultation Meeting</b>	31 <sup>st</sup> January 2019
<b>Date of Site Inspection</b>	2 <sup>nd</sup> and 18 <sup>th</sup> January 2019
<b>Inspector</b>	Joanna Kelly

## 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

- 2.1 The development site has a stated site area in the application form of 17.6ha and is located on zoned lands identified within the settlement boundary for Dundalk. The lands are agricultural in nature and are bounded by the one-off housing to the north which have access directly onto Bothar Maol, a narrow country lane which is gated further west. Dundalk Golf club is located on lands to the west and south of the development site. There are one-off housing located to the eastern boundary with a proposed access road into the lands proposed from Blackrock Road, opposite the coast-line which forms part of the Dundalk SPA and SAC.
- 2.2 The development site lands are elevated from the Blackrock Road and consist primarily of two agricultural fields with a level difference of approx. 20m across the site. There are existing overhead utility lines traversing the lands. The area of the site from which the primary access to the site is proposed, is notably wet. A secondary access to serve a small number of units is proposed from Bothar Maol. It is unclear whether this is a public or private road. It is noted that there is a gate to this road which prevents access via this road in the westerly direction. It was noted at time of inspection that some trees have been felled on the site close to where the secondary access is proposed.

### 3.0 Description of proposed development

The applicant is proposing a residential development comprising of 485 residential units including a childcare facility.

The unit mix as indicated by the prospective applicant is as follows:

**Table 1: Unit Mix**

	<b>Apartments</b>	<b>Housing units</b>	<b>Total Units</b>
1 bed	82		82
2 bed	137		137
3 bed	6	119	125
4 bed		101	101
5 bed		40	40
<b>Total Units</b>	<b>225</b>	<b>260</b>	<b>485</b>

### 4.0 Planning History

The most relevant history associated with the site is noted as follows:

**File Ref. No. 08/520141** Permission granted to W.J.Construction (no. 1) limited for the construction of a foul pumping station and pumping main for connection to the Dundalk Town Trunk Sewer, a storm sewer, realignment of R-172 and the realigned and provision of a site access off Bóthar Maol.

**File Ref. No. 08/752 / ABP PL.15.233263** Application for construction of a foul pumping station and pumping main for connection to the Dundalk Town Trunk Sewer, a storm water, the realignment of the R-172 and the realigned and provision of a site access off Bóthar Maol. Permission to grant permission issued in March 2009 and Leave to Appeal was granted by ABP to two parties. Documentation submitted indicates that the Application was withdrawn in July 2009.

## 5.0 National and Local Planning Policy

### 5.1. National

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

- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
- 'Design Manual for Urban Roads and Streets' (DMURS)
- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices')
- 'Childcare Facilities – Guidelines for Planning Authorities'
- 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities'
- Urban Development and Building Height, Guidelines for Planning Authorities.
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, August 2018.

Other relevant national guidelines include:

- Project Ireland 2040, National Planning Framework.
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

### 5.2. Local Policy

#### 5.2.1 Louth County Development Plan 2015-2021

Dundalk is identified as a 'Large Growth Town 1'. Relevant policies include:

**Policy CS3** To require that a Core Strategy Population and Phasing statement will be submitted with all planning applications for residential development on zoned land detailing how the application complies with the core strategy household allocations and phasing proposals included in the settlement plan.

Chapter 4 of the Louth CDP deals with Residential and Community Facilities. Of note:

**RES 4** Require that 12% of all private residential development on lands zoned for residential or mixed uses (where residential is included) be provided for social/and or specialist housing under the provisions of Part V of the Planning Acts.

**RES 6** To encourage and promote the creation of attractive mixed use sustainable communities which contain a variety of housing types and tenures with supporting community and residential amenities, and where Part V is visually and otherwise integrated into the overall development, thus counteracting undue segregation.

**RES 10** To ensure all new residential developments are consistent with the guidelines and best practice manuals issued by the DECLG in the planning for and provision of sustainable communities within new residential areas.

#### 5.2.2 Dundalk and Environs Development Plan 2009-2015

The site has a land use zoning objective 'Residential 2' and the central portion of the lands are zoned 'Recreation, Amenity and Open Space'.

A variation to the Development Plan in August 2011 provided for a variation to the Core Strategy Phasing Map indicating that the site was identified as 'Phase 3' for development. However, a Core Strategy and Land Use plan provided also as part of this variation identifies the site as 'Residential 2'.

## 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 submission and the discussions which took place during the tripartite consultation meeting. I will provide a brief detail on each of these elements hereunder.

### 6.1 **Documentation Submitted**

6.1.1 The prospective applicant has submitted information pursuant to section 5(5)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 and article 285 of the Planning and of the Planning and Development (Strategic Housing Development) Regulations 2017.

6.1.2 The information submitted included *inter alia*: a completed SHD Application form and cover letter including but not limited to, Schedule of documents; Statement of Consistency including Urban Design and Architectural statement of consistency and DMURS statement; EIAR non-technical summary; NIS; Engineering and Services Report including IW letter re pre-connection; Traffic and Transport Assessment; Flood Risk Assessment, MEP design statement, Street lighting proposals, Construction and demolition waste proposals, plans and particulars.

6.1.3 I have reviewed and considered all of the documents and drawings submitted.

### 6.2 **Planning Authority Submission**

6.2.1 In compliance with section 6(4)(b) of the Act of 2016 the planning authority for the area in which the proposed development is located, Louth 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 25<sup>th</sup> January 2019.

6.2.2 The planning authority's opinion refers to key planning considerations as follows:

- It is the opinion of the planning authority that the proposal adheres to the policies and objectives of the National Planning Framework through providing compact urban growth, enabling people to live closer to employment and amenity/recreational opportunities and providing higher densities and mixed tenure community.
- The proposal adheres to the policies and objectives of the draft RSES.
- The development is consistent with the zoning objective.
- Residential accommodation within walking distance of large multinational and indigenous industry promotes modal shift and creates an environment where there is less dependency on the car. The development is well placed and provides for typology of residential accommodation not readily available within the Dundalk market.
- The core strategy for Dundalk is an outdated document and has not been updated to accord with the Core Strategy of the County Development Plan.
- The applicant has undertaken a robust assessment of the Core Strategy. The NPF prioritises Dundalk for growth.
- The lands represent a suitable sustainable location for consolidation.
- The prospective applicant has entered into discussions with housing to provide for Part V.
- The height and location of the taller structures are sensitive to the adjoining and established pattern of development on Bothar Maol. The layout and density is reflective of the advice during section 247 meetings.
- The scheme provides a good mix of units to cater for varying demographics.
- The development is consistent with the Design Manual. The council will require 10% of housing apartment units to be designed to Lifetime Home Standards.
- The development has been laid out to take account of adjoining and established residential areas.
- The quantum of public and private open space meets and exceeds the development plan requirements.
- Layout of the scheme allows for connectivity to adjoining lands and in particular given its location and proximity to employment generating lands.
- Infrastructure has no objection to the development subject to conditions.
- Welcome the landscape strategy and open space strategy is well thought out.

- Site is well serviced for the development of a childcare facility.
- All mitigation measures will need to be implemented as detailed in section 7.0 of the flood risk assessment.
- No concerns regarding archaeology in this area.
- PA note that the development is below threshold for the need for the preparation of an EIAr however given the scale of development it is considered that that the best approach is the cautionary approach.
- There are no protected habitats or structures on site.
- Conclusion refers to previous comments and notes further consideration required in respect of phasing.

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

As stated in the Confirmation of Feasibility, the applicant must install a water network extension and upgrade existing mains along with a wastewater network extension to facilitate the connection of the development to Irish Water Infrastructure. The network extensions and upgrades will not require statutory or third-party consents other than road opening licences from the local authority. IW confirms that subject to a compliant water and wastewater layout and a valid connection agreement being put in place the proposed connections to the IW network can be facilitated.

### **7.0 Consultation Meeting**

7.1 A Section 5 Consultation meeting took place at the offices of Louth County Council on 31st January 2019, commencing at 11.30 am. Representatives of the prospective applicant, Louth County Council and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting.

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

1. Phasing of development having regard to the local policy context
2. Zoning having regard to the location of roads/parking on Recreation, amenity and open space lands
3. Access, connections and permeability



4. Surface water management to include risk of flooding and AA considerations
5. Visual Impact
6. Public realm to include boundary treatment
7. Any other matters

7.3 In relation to the Phasing of development having regard to the local policy context ABP representatives sought further discussion/elaboration on the justification for the release of the lands having regard to the phased release of lands identified in the Dundalk Environs Plan and also the justification for a 10 year permission in this context.

7.4 In relation to zoning having regard to the location of roads/parking on recreation, amenity and open space lands, ABP representatives sought further discussion/elaboration on this issue.

7.5 In relation to Access, Connections and Permeability, ABP representatives sought further discussion/elaboration on this issue particularly the need to include all lands where works are proposed within the red line boundary, consideration of proposed connections to adjoining lands and interface of new access roads with adjoining lower lying lands.

7.6 In relation to Surface Water Management to include Flood Risk and AA considerations, ABP representatives sought further elaboration/discussion on potential for displaced waters, flood risk associated with both entrances and potential impact for future residents, potential AA issues as a result of any changes to current discharge outfall to the SAC.

7.7 In relation to Visual Impact, ABP representatives sought further elaboration/discussion on this issue having particular regard to longer range impacts e.g. across the bay and the need for photomontages at application stage.

- 7.8 In relation to Public Realm to include boundary treatment, ABP representatives sought further elaboration/discussion on this issue having regard to in particular the proposed interface of proposed development with adjoining lands and creation of stronger passive surveillance over open space.
- 7.9 In relation to Any Other Matters, ABP representatives sought further elaboration/discussion regarding the protected trees/woodland as identified on the Development plan map, inclusion of maps/plans where they are referred to in documentation submitted, consideration of existing residential amenity.
- 7.10 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 ABP-303256-18' 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.

## **8.0 Conclusion and Recommendation**

- 8.1 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 and as amended by Section 50 of the Planning and Development (Amendment) Act 2018.
- 8.2 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 and the discussions which took place at the tripartite meeting. I have had regard to both national policy, via the section 28 Ministerial Guidelines, and local policy via the statutory plans for the area.

- 8.3 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 as set out in the recommended Opinion below.
- 8.4 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.
- 8.5 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.

## 9.0 Recommended Opinion

- 9.1 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.
- 9.2 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.**
- 9.3 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. Timing and Phasing of Development

Further consideration and/or justification of the documents as they relate to the development of Phase II residential lands as set out in the Dundalk Environs development plan and the possible prematurity of development at this location pending the completion of the review of this plan. Where it is proposed to develop the subject lands prior to the adoption of the new development plan a planning rationale/justification for the release of these Phase II residential lands should be submitted which has due regard to all Phase I residential lands which remain undeveloped and the provisions of the County Development Plan 2015-2021. The duration of permission sought should also be considered in this context.

An appropriate statement in relation to section 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended by Section 53 of the Act of 2018, that outlines consistency with the relevant development plan and that specifically address any matter that maybe considered to materially contravene the said plan should be provided. The further consideration of this issue may require an amendment to the documents and/or design proposals submitted.

2. Surface water management and Risk of Flooding

Further consideration of documents as they relate to surface and storm water management for the development lands and the risk of displaced or increased discharge of waters downstream to the Dundalk Bay SAC, including the risk of flooding to the site entrances. This further consideration should be considered within the Environmental Impact Assessment report. Regard should be given to the requirements of the Local Authority in respect of surface water treatment and disposal and SUDS measures proposed for the scheme. Any surface water management proposals should be considered in tandem with any Flood Risk Assessment, which should in turn accord with the requirements of 'The Planning

System and Flood Risk Management Guidelines' (including the associated 'Technical Appendices') and include hydraulic modelling where considered appropriate. Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

8.4 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

1. In the context of ancillary or associated enabling infrastructure (roads and carparking) being located on lands zoned 'Recreation, Amenity and Open Space' and thereby reducing the quantum of open space, a design rationale/planning justification in respect of the open space provision, and built/urban edge surrounding it should be submitted.
2. An Environmental Impact Assessment Report.
3. A layout plan with the zoning objectives overlain on the proposed residential scheme to provide clarity regarding location of residential units and road infrastructure including parking vis-à-vis the lands zoned open space.
4. Photomontages and cross sections at appropriate intervals for the proposed development including how the development will interface with contiguous land-uses. Proposed boundary treatments should be specified.
5. Details of existing and proposed levels across the development site relative to adjoining lands in particular contiguous residential properties and where connections to adjoining lands are proposed Full details of any changes in levels proposed should be provided.

6. Having regard to the local road network serving the site and adjoining lands, and its ability to accommodate additional traffic and/or accesses, the prospective applicant should demonstrate the suitability of the proposed vehicular access arrangements for the subject site and to consider or address any issues in respect of access to adjoining lands, in particular ensuring that the proposed development subject of this SHD pre-app does not unduly prejudice the future development of adjoining zoned lands.
7. A site layout plan which clearly identifies the full extent of works to the proposed entrances and road junctions whether in public or private ownership. Relevant consents to carry out works on lands that are not included within the red-line boundary. The prospective applicant is advised that all works should as far as possible be included within the red-line boundary.
8. All existing watercourses and utilities that may traverse the site including any proposal to culvert/re-route/underground existing drains/utilities should be clearly identified on a site layout plan.
9. A Building Life Cycle Report in respect of the proposed apartments as per section 6.13 of Sustainable Urban Housing: Design Standards for New Apartments- Guidelines for Planning Authorities (2018).
10. A construction and demolition waste management plan.
11. A phasing plan for the proposed development which includes the phasing arrangements for the delivery of the public open spaces, surface water management proposals having regard to sub-catchments within the scheme and Part V provision.

12. A site layout plan indicating all areas to be taken in charge.

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. Transport Infrastructure Ireland
3. Minister for Culture, Heritage, and the Gaeltacht
4. Heritage Council
5. An Taisce – the National trust for Ireland
6. Louth 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 2018 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

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Joanna Kelly

Senior Planning Inspector

12th February 2019