



An  
Bord  
Pleanála

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

## Inspector's Report on Recommended Opinion

**303257**

---

<b>Strategic Housing Development</b>	123 build to rent apartments.
<b>Location</b>	24, 26 and 28 Foster's Avenue, Mount Merrion, Blackrock, Co Dublin.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council.
<b>Prospective Applicant</b>	Foster Stack Limited.
<b>Date of Consultation Meeting</b>	25 January 2019.
<b>Date of Site Inspection</b>	13 January 2019.
<b>Inspector</b>	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 Foster's Avenue (R112) in Mount Merrion Co Dublin, opposite lands associated with University College Dublin. The large site comprises an industrial building and dwelling house and garden. The character of the area is defined by large houses on large garden sites, there is a small infill cul-de-sac development located immediately to the east of the site. The subject site comprises an industrial building that almost completely covers the entirety of the site and a gable fronted dwelling and its garden. There a number of mature trees on the boundaries of the site.

## 3.0 Proposed Strategic Housing Development

The proposed development which is subject of this pre-application consultation request comprises 123 build to rent units provided in a single apartment block on 0.6068 Hectares, the detail is as follows:

123 units in an apartment building between 4 and 5 storeys:

- 1 bed apartments 53 units (43%)
- 2 bed apartments 70 units (57%)

43% of units are dual aspect.

84 car parking spaces, 271 bicycle spaces.

Communal Facilities such as a cinema/media room, laundry room, gym communal amenity room, lounge and two bookable guest rooms.

203 units per Hectare.

## 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:

- 'Urban Development and Building Heights Guidelines for Planning Authorities' - 2018
- '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'

### 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 on land zoned Objective A - to protect and-or improve residential amenity.

**SLO 6** - To promote potential additional future uses of the Dublin Eastern Bypass reservation corridor, including a greenway/cycleway, a pedestrian walkway, biodiversity projects, recreational opportunities – inclusive of playing pitches - and

public transport provision such as Bus Rapid Transit services, pending a decision from Transport Infrastructure Ireland/Central Government in relation to the future status of the Bypass. Any potential additional future short-term uses of the reservation corridor will be subject to a joint feasibility study to be undertaken by TII and the NTA.

**Policy RES3:** Residential Density provides that it is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:

- ‘Sustainable Residential Development in Urban Areas’ (DoEHLG 2009)
- ‘Urban Design Manual – A Best Practice Guide’ (DoEHLG 2009)
- ‘Quality Housing for Sustainable Communities’ (DoEHLG 2007)
- ‘Irish Design Manual for Urban Roads and Streets’ (DTTaS and DoEHLG 2013)
- ‘National Climate Change Adaptation Framework – Building Resilience to Climate Change’ (DoECLG 2013).

**Policy RES14: Planning for Communities** – it is Council policy to plan for communities in accordance with the aims, objectives and principles of ‘Sustainable Residential Development in Urban Areas’ and the accompanying ‘Urban Design Manual – A Best Practice Guide’. In all new development growth areas, and in existing residential communities it is policy to ensure that proper community and neighbourhood facilities are provided in conjunction with, and as an integral component of, major new residential developments and proposed renewal/redevelopment areas, in accordance with the concept of sustainable urban villages outlined under Policy RES15.

## 5.0 Planning History

Subject site:

- PA reference D08A/0324 and ABP PL06D.235181 – Permission refused for 19 residential units with a basement car park of 58 spaces.
- PA reference D04A/0240 – Permission for 20 Residential Units.

#### 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 (09/10/18).

### 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, architectural drawings and design report, engineering drawings, Bat Survey, photomontages, landscape drawings and report, AA Screening Report, Environmental Screening, Part V proposal, planning report including a statement of consistency, flood risk assessment, mechanical and electrical services engineering report, Traffic Impact Assessment and a response from Irish Water Letter.
- 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 21 January 2019.

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 Development Plan and any specific objectives for the area and a list of relevant national policy documents. The planning authority's comments included the following:

- **Minutes of Section 247 Consultations** – Minutes are provided within the report.
- **Internal Reports** – Reports are noted from the Transportation, Drainage and Housing Department.
- **Planning history** – A comprehensive list of planning applications on site.
- **Policy Context** – An outline of relevant policies for the site are detailed in the report. The lands are zoned for 'residential' use. The principle of accommodating a higher density development at this location is generally accepted and encouraged.
- **Density** – Planning Authority states that the proposed density exceeds the minimum density requirement of 50 units per Hectare.
- **Apartment Standards** – the relevant standards have been met.
- **Parking** – one space per unit plus one visitor space per 10 units is considered appropriate at this location. It is noted that the applicant has stated that a car club space can replace approximately 10-15 cars. A more direct access for cycle parking is preferred to that proposed.
- **Dublin Eastern Bypass** – any application should show that the reservation is kept free from development and that certain criteria are adhered to in the design of the units inter alia; visual impact, noise etc.
- **Building Height** – a five storey building at this location is considered to be at variance with the prevailing character of the area and would not comply with SPPR3 of the Building Height Guidelines.
- **Daylight** – concerns that not all apartments will receive the required amount of daylight.
- **Overlooking** – there would serious overlooking of 2 The Fosters.

- **Overbearing** – there would be serious issues of overbearing appearance from residential units in the vicinity.
- **Overshadowing** – it is recommended that a full analysis of overshadowing is undertaken by the applicant.
- **Design and Appearance** – the palette of materials is welcomed, the height, bulk and massing of the proposal is incongruous.
- **Childcare** – an assessment of the need for a childcare facility is required at application stage.
- **Part V-** Proposals are noted but costs exceed the Council's limits.
- **Conclusion** – A summary of the issues that ABP may wish to consider are provided in the conclusion.

### **Submission from Irish Water**

- 6.1.7. A submission was received from Irish Water and is available on file. In summary, the submission states that the proposed development is a standard connection, requiring no network or treatment plant upgrades for water or wastewater by either the customer or Irish Water. No third party consents are required for these connections.
- 7.1.1. A section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 25 January 2019, 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.
- 7.1.2. 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. Building height, scale and massing
  2. Residential Amenity
  3. Visual Impact
  4. Car/Cycle Parking – quantum and design
  5. Eastern By-Pass reservation
  6. Childcare Provision
  7. Surface Water - Flood Risk

8. Legal Covenant

9. Any other matters

- 7.1.3. In relation to Building height, scale and massing, ABP representatives sought further elaboration/discussion on the building heights objectives contained in the CDP and raised by the planning authority in their report. The applicant briefly outlined the design rationale for the site and are satisfied that the optimum density and height has been achieved. ABP representatives suggest that a greater range of long sections through the site and adjacent property would be useful and there should be a statement regarding building height and scale as outlined in the recently published building height guidelines.
- 7.1.4. In relation to Residential Amenity, ABP representatives sought further elaboration/discussion on the likely residential amenities that will be afforded to future residents. The applicant outlined the beneficial location of the site and the availability of local amenities and services. In addition, the design of the proposed development was examined, in particular the decision to omit some ground floor apartments due to less than satisfactory daylighting results. The applicant was advised that a robust rationale should be prepared that illustrates the impact of overshadowing to adjacent dwellings as well as to future occupants of the proposed scheme.
- 7.1.5. In relation to Visual Impact, ABP representatives sought further elaboration/discussion on the impact of the development as viewed from the street. Any design should clearly show the interface with the public domain and be designed in accordance with the advice provided by DMURS. Further consultation with the planning authority in this respect is advised.
- 7.1.6. In relation to Car/Cycle Parking – quantum and design, ABP representatives sought further elaboration/discussion on the amount of car parking spaces provided given that the development will be build to rent. In addition, clarity was sought in relation to ramped access to the underground car parking and cycle parking, particularly with regard to the segregated bicycle ramp. The applicant considered that the amount of car parking could be revised downwards and defended the provision of a segregated and gently sloped ramp for bicycle access. The applicant was advised that drawings



should show greater clarity with regard to the bicycle access and that it should be well lit and passively supervised from adjacent apartments.

- 7.1.7. In relation to the Eastern By-pass reservation, ABP representatives sought further elaboration/discussion on the status of the road reservation. The planning authority reported that no further progress has been made on the detailed design of the road, but it remains an objective of the CDP. The applicant was advised to take account of the criteria outlined by the planning authority with regard to development adjacent to the route corridor.
- 7.1.8. In relation to Childcare Provision, ABP representatives sought further elaboration/discussion on the lack of a childcare facility on site and recommended engagement with the County Childcare Committee. The applicant set out the reasons why a childcare facility is not required but agreed that a childcare demand report could be prepared.
- 7.1.9. In relation to Surface water flood risk, ABP representatives sought further elaboration/discussion on any surface water issues. The planning authority highlighted some technical surface water corrections that would be necessary and specifically noted issues of surcharging of a foul sewer in the area. The applicant was advised to consult as far as possible to finalise surface water technical issues before an application is made and engage further with Irish Water concerning possible foul water issues, if any.
- 7.1.10. In relation to the preparation of a Legal covenant, ABP representatives sought further elaboration/discussion on the requirement to submit a legal covenant document with any application for the type of development proposed.
- 7.1.11. In relation to any other matters, ABP representatives reminded the applicant to engage further, as necessary, with Dun Laoghaire County Council Housing Department with respect to any Part V obligations.
- 7.1.12. 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 303257' 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**

- 8.1.1. 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.
- 8.1.2. 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.
- 8.1.3. 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.
- 8.1.4. 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.

## **9.0 Recommended Opinion**

- 9.1.1. 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.

- 9.1.2. 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.
- 9.1.3. 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 proposal constitutes a reasonable basis for an application, the prospective applicant should satisfy themselves that the proposed building heights provide the optimal architectural solution for this site and in this regard, the proposed development shall be accompanied by an architectural report and accompanying drawings which outlines the design rationale for the proposed building height and scale, having regard to inter alia, National and Local planning policy, the site's context and locational attributes. An accompanying architectural report should outline the design rationale for the proposed building height, scale and massing in light of the publication of 'Urban Development and Building Height' 2018 and specifically with reference to Chapter 3 Building Height and the Development Management process, of the guidelines.
  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. There shall be a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential

units are sold or rented separately for that period (Your attention is drawn to the provisions of Specific Planning Policy Requirement 7 of the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2018).

3. 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. Specific regard should be had to ground floor apartments at sensitive locations and existing adjacent properties.
4. A mobility management strategy that shall be sufficient to justify the amount of parking proposed for cars and bicycles.
5. 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 the specific planning policy requirements in respect of Build to Rent developments.
6. Additional drainage details for the site having regard to the requirements of the Municipal Services Drainage Planning as indicated in their report dated 17/01/19 and contained in Appendix B of the Planning Authority's Opinion. 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' (including associated 'Technical Appendices').
7. Cross-sections at appropriate intervals, photomontages, a 3D model (if considered necessary) and any other information deemed relevant, illustrating the topography of the site and showing the proposal relative to existing development in the vicinity.
8. Contour/site level map accurately and legibly showing levels across the site and adjacent to the site.

9. A site layout plan showing which, if any, areas are to be taken in charge by the planning authority.
10. Additional details in relation to the Dublin Eastern Bypass Corridor and having regard to the requirements of the Transportation Planning Section as indicated in their report dated 17/01/19 and contained in Appendix B of the Planning Authority's Opinion.
11. Childcare demand analysis and likely demand for childcare places resulting from the proposed development, if any.
12. A building 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.
13. Construction and Demolition Waste Management Plan.

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:

1. Irish Water
2. Transport Infrastructure Ireland
3. National Transport Authority
4. 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.

---

Stephen Rhys Thomas  
Planning Inspector

12 February 2019