



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-303300-18

Strategic Housing Development	259 residential units comprising 221 houses and 38 duplex/apartment units and a crèche
Location	Minister's Road, Regles, Lusk, Co. Dublin
Planning Authority	Fingal County Council
Prospective Applicant	Dwyer Nolan Developments Ltd.
Date of Consultation Meeting	14 th February 2019
Date of Site Inspection	10 th February 2019.
Inspector	Tom Rabbette

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 following is an extract from the Inspector's Report on ABP-301001-18 relating to a planning appeal on the subject site, I concur with this 'Site Location and Description' and consider it still applicable to the site:

"Lusk is located in the administrative area of Fingal County Council and is approximately 8 kilometres to the north east of Swords. The site is located on the western edge of Lusk and to the north of Ministers Road, a local road that connects Lusk to the R132 (former N1).

The site is bounded by Minister's Road to the south, by agricultural lands to the north, to the east by the Round Towers GAA Club and to the west by agricultural lands that include a dwelling and a golf range. The site, with a stated area of 8.26 hectares, is irregular in shape. It comprises five fields or field sections and is traversed centrally by field boundaries, drainage ditches and mature hedge planting. The northern and southern boundaries are defined by field boundaries with hedge planting. The eastern boundary is undefined. The upper section of the western boundary includes a field boundary that is marked by hedge planting at its northern section, while the lower section is undefined. The site comprises a mixture of grassland, tilled land, bear ground, dry meadows, grass verges and scrub and ground levels fall from north to south. There is an underground gas main and an associated wayleave running north – south through the eastern section of the site. The site is on the western outskirts of Lusk Village and is within the 50 k/h speed zone. The Dun Emer housing estate is located to the south of Minister's Road and

address the site. Lands to the immediate east are zoned Open Space reflecting the established sports facility at this location, while the lands to the west are zoned for General Employment uses.

Bus stops on the Dublin Road are over 1 kilometre from the site and the Lusk / Rush Train Station is located between the settlements of Lusk and Rush at a distance of over 2.5 kilometres from the site.”

3.0 Proposed Strategic Housing Development

It is proposed to develop 259 residential units as follows:

- 23 no. 2 bedroom units (made up of 5 houses and 18 apartments). This accounts for 9% of the proposed residential units
- 236 no. 3 and 4 bedroom units (made up of 216 houses and 20 apartments). This accounts for 91% of the proposed residential units

The 221 proposed houses are all two-storey and are a mix of detached, semi-detached and terraced units. The 38 apartments are provided for in 4 no. blocks of 3-storey duplex typology. The development also includes a two-storey detached crèche, site development works, car parking, hard and soft landscaping and a cycle path along the southern boundary with Minister’s Road. The proposal also includes two vehicular entrances off Minister’s Road.

4.0 Planning History

ABP-303001-18 (F17A/0327): The Board overturned the p.a. decision to grant permission for a proposed residential development comprising of 228 dwelling units, a crèche and associated works on the site. Subject to conditions, the p.a. decision granted permission for 209 units. The Board refused for two reasons, reason 1 related to too low of a density and reason 2 related to inadequate provision for an

identified feeder cycle route along the southern boundary of the site along Minister's Road frontage.

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

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 Statutory Plan for the area

The Fingal Development Plan 2017-2023 is the relevant statutory plan. The following sections of the Development Plan are considered to be relevant:

- The site is zoned RA 'Residential Area' with an objective to '*provide for new residential communities subject to the provision of the necessary social and*

physical infrastructure'. The zoning vision is to '*ensure the provision of high quality new residential environments with good layout and design, with adequate public transport and cycle links and within walking distance of community facilities*'. Residential development is permitted in principle in this zone.

- Objective SS20: Manage the development and growth of Lusk, Rush and Skerries in a planned manner linked to the capacity of local infrastructure to support new development.
- Chapter 3 sets out Design Criteria for Residential Development including mix of dwellings, density and open space provision.
- The Development Strategy for Lusk, contained in Chapter 4 'Urban Fingal' seeks to conserve and enhance the unique character of the town core, consolidate the planned growth of the town and to ensure that the level of retail and local services grows to serve the expanding town population. The following objectives are also considered relevant:
 - Objective LUSK 4 is to retain the traditional hedgerow boundary treatment characteristic of the town. The objectives states that the protection and enhancement of existing boundary hedgerows and trees shall be required save where limited removal is necessary for the provision of access and promote the planting of hedgerows and trees using native species within new developments.
 - Objective LUSK 7 is to ensure that existing and future development is consolidated within well-defined town boundaries to maintain the distinct physical separation of Lusk and Rush.
 - Objective LUSK 11 is to prepare and/or implement Masterplans during the lifetime of this Plan for the identified Masterplan areas including the Minister's Road Masterplan (Map Sheet 6A: MP 6.B refers). The objectives states that the main elements to be included in the Ministers Road Masterplan should include the provision of a new community facility with a minimum of 300 square metres, provision for phased residential development ensuring that playing pitches and the community facility are provided in tandem, and ensure that no

development takes place until such time as a Management Plan for the Outer Rogerstown Estuary is adopted by the Council.

- Objective MT13: Promote walking and cycling as efficient, healthy, and environmentally-friendly modes of transport by securing the development of a network of direct, comfortable, convenient and safe cycle routes and footpaths, particularly in urban areas.
- Objective MT14: The Council will work in cooperation with the NTA and adjoining Local Authorities to implement the *Greater Dublin Area Cycle Network Plan* subject to detailed engineering design and the mitigation measures presented in the SEA and Natura Impact Statement accompanying the NTA Plan.
- Objective MT41: Seek to implement the Road Improvement Schemes indicated in Table 7.1 within the Plan period, subject to assessment against the criteria set out in Section 5.8.3 of the NTA Transport Strategy for the GDA, where appropriate and where resources permit. Reserve the corridors of the proposed road improvements free of development. Ministers Road upgrade is listed as a proposed road scheme in Table 7.1.
- Section 12.3 of the Development Plan sets out design criteria for urban development and includes quantitative standards relating to dwelling size, separation standards, public and private open space provision, car parking, etc. Reference is made to guidelines published by the Department of Environment, Community and Local Government in respect of quality housing and sustainable residential development and to the Design Manual for Urban Roads and Streets, which was published jointly with the Department of Transport Tourism and Sport. Policy objectives PM31 to PM33 promote good urban design practices in accordance with these guidelines.
- With respect to residential densities, the Development Plan states that regard should be had to the government's guidelines (*Sustainable Residential Development in Urban Areas, Urban Design Manual*) (Objective PM41).
- Sheet No.6 Lusk / Rush: The site is within the development boundary of Lusk and is within Masterplan area "MP 6.B".

- The Lusk Local Area Plan 2009, contained local objectives relating to the subject site and its immediate environs. However, this plan has expired and is superseded by the more up to date policy context contained in the Fingal Development Plan 2017-2023.

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.

6.1 Documentation Submitted

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. The submitted documentation comprises of the following: a completed application form; a 'Planning Report & Statement of Consistency', 'Screening for Appropriate Assessment'; 'Response to FI's for residential development at Regles, Lusk, Co. Dublin'; 'Site Specific Flood Risk Assessment'; 'Traffic & Transport Assessment'; 'Engineering Services Report for Residential Development at Regles, Lusk, Co. Dublin'; 'An Arboricultural Assessment of the Site at Regles, Minister's Road, Lusk, Co. Dublin'; 'Archaeological Assessment Regles, Lusk, Co. Dublin'; a foul sewer layout plan; watermain layout plan; surface water manhole details; standards detail; surface water longsections; foul water longsections; detention basis cross sections; surface water layout plan; road longsections; road layout plan; proposed site plan; landscape masterplan; landscape details; open space & landscape specifications; boundary masterplan, details & tree pit locations; playground location & details; tree constraints plan; tree protection plan, and an A3 booklet of the proposed houses, duplex units and crèche.

Section 5(5)(b) of the Act of 2016 requires the submission of a statement that, in the prospective applicant's opinion, the proposal is consistent with both the relevant objectives of the development plan or local area plan concerned, and the relevant guidelines issued by the Minister under section 28 of the Act of 2000. These

statements have been submitted and are contained within the document titled 'Planning Report & Statement of Consistency'.

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

6.2 Planning Authority Submission

A submission from Fingal County Council was received by An Bord Pleanála dated 31st January 2019. It provides a description of the site location, the land use zoning applicable to the subject site and a planning history for the site and in the wider area. It refers to internal departmental reports and summarises them as follows:

- Water Services Section: proposal generally acceptable/points to note
- Parks and Green Infrastructure Division: proposal generally acceptable/points to note
- Fields Monuments Advisor: proposal generally acceptable/point to note
- Conservation Officer: concerns raised regarding design of the proposal
- Housing Department: proposal generally acceptable/points to note

It should be noted however, that the above mentioned departmental reports were not included in the planning authority submission. The planning authority report provides a detailed breakdown of the proposed development. It refers to relevant national and local planning policy before going on to provide an analysis of the proposed development.

That analysis is carried out under the following headings:

- Compliance with zoning objective/Development Plan objectives/relevant guidelines
- Impact on residential amenity of area
- Integration & impact on visual amenity of area
- Transportation issues
- Water & drainage issues
- Parks/open space issues
- Impacts on Natura 2000 sites/EIA Screening

- Part V
- Archaeology
- Issues arising

The planning authority reports includes some 29 recommendations relating to the issues as listed above. It goes on to conclude, inter alia, that the proposal is substantially in compliance with the relevant objectives of the Fingal Development Plan 2017-2023, relevant s.28 guidelines and, subject to a list of recommended amendments attached to the report, would be in compliance with the proper planning and sustainable development of the area.

6.3 Irish Water Submission

In a letter dated 23/01/19 IW stated that it confirms that subject to a compliant water and wastewater layout and a valid connection agreement being put in place between IW and the developer, the proposed connections to IW networks can be facilitated.

The letter does also state that the Chapel Farm wastewater pumping station must be upgraded to facilitate the connection of the development to IW infrastructure and that planning permission will be required for this upgrade. I note that in recent planning application ref. 301001-18, IW had 'no objection' and the report from IW at that stage did not mention the Chapel Farm wastewater pumping station.

6.4 Department of Culture, Heritage and the Gaeltacht Submission

In a letter dated 11/01/19, the DAU of the above Department welcomed the submission at pre-app stage of an Archaeological Assessment Report. It goes on to recommend that the report be reviewed by the applicants and adjusted to confirm that it is contemporary with the current proposal.

6.5 Consultation Meeting

A Section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 14th February 2019, commencing at 14.30. 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.

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

1. Refusal Reason No. 1 on ABP-301001-18 / density / unit mix
2. Quantum and location of public open space provision / interface of public open space with lands zoned for Open Space adjoining to the east / Objective LUSK 11 relating to Minister's Road Masterplan
3. Site layout / Consideration of the 12 criteria contained in the *Urban Design Manual – A Best Practice Guide (May 2009)* / Building height (consideration of *Urban Development and Building Height – Guidelines for Planning Authorities (December 2018)*) / DMURS and road-street hierarchy
4. AA Screening Report
5. Archaeological heritage protection
6. Wastewater infrastructure
7. Refusal Reason No. 2 on ABP-301001-18 / car parking provision
8. Crèche location

A record of that meeting is on file. It refers to the issues raised and records the responses of both the planning authority and the prospective applicant.

In relation to refusal Reason No. 1 on 303001, density and unit mix, ABP representatives sought further elaboration/discussion on the proposed density relative to the previous refusal, how the net density is being calculated and the rationale for the unit mix being proposed.

In relation to issues around the proposed open space provision and the Objective LUSK 11, ABP representatives sought further elaboration/discussion on the quantum and distribution of the open space serving the development and the relationship/interface of this open space with the lands adjoining to the east that are zoned open space.

In relation to site layout, consistency with the UDM, consistency with the Building Height Guidelines 2018 and DMURS, ABP representatives sought further elaboration/discussion on the influence of DMURS in the site layout, creation of a hierarchy in the streets/roads being proposed, the need to demonstrate consistency with the 12 criteria of the UDM in the submitted drawings (and not just in written

documents), and the need to indicate that the proposed development has had due regard to the building height guidelines issued in late 2018.

In relation to AA screening report, ABP representatives sought further elaboration/discussion on the PA Opinion and the comments regarding the AA screening report information referred to therein.

In relation to archaeological heritage protection ABP representatives sought further elaboration/discussion on the submission from the National Monuments Service (dated 11/01/19).

In relation to wastewater infrastructure ABP representatives sought further elaboration/discussion on the contents of the Irish Water submission (dated 23/01/2019) with regards to the need to upgrade a pumping station to facilitate the proposed development.

In relation to refusal reason no. 2 on 303001 and car parking provision, ABP representatives sought further elaboration/discussion on the delivery of the cycle lane along the Minister's Road frontage and the justification for the car parking provision.

In relation to the crèche provision ABP representatives sought further elaboration/discussion on the location of the crèche in an area of open space and how that building interfaces with the surrounding open space area.

In relation to any other matters, ABP representatives sought further elaboration/discussion on possible vehicular connections to adjoining lands from the subject site.

Both the prospective applicant and the planning authority were given the opportunity to comment and respond to the issues raised. Those comments and responses are recorded in the 'Record of Meeting ABP-30300-18' which is on file. I have fully considered the responses and comments of the prospective applicant and planning authority in preparing this Recommended Opinion hereunder.

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, Irish Water and the Department of Culture, Heritage and the Gaeltacht 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 following elements: Density and residential unit mix; site layout and urban design strategy; Quantum and distribution of public open space; Wastewater infrastructure, and Crèche location, details of which 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

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.

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. Density and residential unit mix

Further consideration and amendment of the documents as they relate to the density proposed and the residential unit mix. This consideration should have regard to, inter alia, the minimum densities provided for in the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (May 2009) in relation to such sites. Particular regard should be had to the need to develop at a sufficiently high density to provide for an acceptable efficiency in serviceable land usage given the proximity of the site to established social and community services in Lusk. The documents at application stage should include a site layout plan clearly indicating what lands (if any) were excluded from the calculation of the net density and a justification (if applicable) as to why such lands were excluded, the justification should have regard to, inter alia, Appendix A of the above mentioned guidelines. Further consideration in the documentation

should also be given to the unit mix having regard to the need to deliver sustainable communities in new residential developments.

2. Site layout and urban design strategy

Further consideration and amendment of the documents as they relate to the proposed site layout and urban design strategy. In that regard, the following matters should be addressed in the documentation:

- (i) Notwithstanding the contents of the statement of consistency relating to the 12 criteria of the 'Urban Design Manual – A best practice guide' (May 2009) submitted at pre-application stage, An Bord Pleanála is of the opinion that the documentation relating to site layout and overall urban design strategy could be better informed by the stated 12 criteria. The documentation at application stage should clearly indicate how the 12 criteria were applied and, in that regard, the submitted drawings, as well as the written statements, should demonstrate consistency with the 12 criteria.
- (ii) The statement of consistency submitted does not make reference to the 'Urban Development and Building Heights – Guidelines for Planning Authorities' (December 2018). The documentation – drawings as well as written statements - at application stage should demonstrate consistency with these (and other) guidelines.
- (iii) Further consideration and/or justification of the documents as they relate to the proposed road/street layout. Notwithstanding reference to the submission of a document titled 'Statement of Compliance with DMURS' (ref. page 26 of 'Planning Report & Statement of Consistency' – Delphi Architects + Planner), no such document was submitted. Consistency with the principles, approaches and standards as set in DMURS, which include, inter alia, a multidisciplinary design process, should be evident in the overall layout.

Further consideration of the above may require possible amendment to the documents and/or design proposals.

(3) Quantum and distribution of public open space

Further consideration and/or justification of the documents as they relate to both the quantum and distribution of the open space provision across the site. The documentation at application stage should address the rationale for the location of the open space and also how it interfaces with, and relates to, the lands adjoining the site to the east which are zoned open space in the statutory development plan for the area.

(4) Wastewater infrastructure

Further consideration and clarification in the documents with regards to the proposed wastewater services. In particular, the consideration/clarification should address the contents of the submission from Irish Water (dated 23/01/19) concerning the need to upgrade the Chapel Farm wastewater pumping station to facilitate the connection of the development to wastewater infrastructure. Clarity is required at application stage as to what upgrade works are required, who is to deliver these works, when are the works to be delivered relative to the completion of the proposed housing development and whether such upgrade works are to be the subject of separate consent processes. The prospective applicant should satisfy himself/herself that the application for the proposed development is not premature pending the delivery of the upgrade works referred to above.

(5) Crèche location

Further consideration and/or justification in the documents as they relate to the location of the proposed crèche and its interface/relationship with the surrounding open space if the proposed location as indicated in the pre-application consultation documents is to be maintained.

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. Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs
3. Heritage Council
4. An Taisce – the National Trust for Ireland

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. The information referred to in article 299B(1)(b)(ii)(II) and 299B(1)(c) [if applicable] of the Planning and Development Regulations 2001-2018 in a standalone document.
2. A site layout plan indicating what areas are being proposed to be taken in charge by the local authority. In that regard, all routes of connectivity (pedestrian, cycle and vehicular) to adjoining lands, where proposed, should be indicated going right up to the shared boundary with adjoining lands.
3. A response to the issues raised in the submission from the Development Applications Unit of the Department of Culture, Heritage and the Gaeltacht (dated 11th January 2019) concerning archaeological heritage protection.
4. A detailed landscaping plan for the site which clearly sets out proposals for hard and soft landscaping including furniture and play equipment, where proposed. The landscaping plan should provide colour coded details of walking/cycling routes proposed within the development.

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.

Tom Rabbette
Assistant Director of Planning
28th February 2019