



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-304374-19

Strategic Housing Development	144 homes
Location	Santa Sabina, Greenfield Road, Sutton, Dublin 13
Planning Authority	Fingal County Council
Prospective Applicant	Parsis Ltd.
Date of Consultation Meeting	13 th June 2019
Date of Site Inspection	6 th June 2019
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 is in a suburban part of Dublin c12km north-east of the city centre. It is c1km south west of the railway station at Sutton and c600m from the local centre at Sutton Cross. The site has a stated area of 2.46 ha. It lies on the curtilage of a secondary school. It includes the original access to the school, another access that was recently built but not yet opened, a fenced compound and various pieces of open space with mature trees. It encompasses but excludes a hockey pitch. The site is close to a sports hall and modern buildings in the school. The historic house and convent in the school is on the other side of those structures from the site. The site has c190m frontage onto the coast road opposite Sutton Strand. Its western boundary is with the curtilage of a modern church. Its northern boundary is along the back gardens of semi-detached houses. The southern end of its eastern boundary is with the back gardens of detached houses. The rest of that boundary is with the remainder of the curtilage of Santa Sabina school.

3.0 Proposed Strategic Housing Development

3.1. It is proposed to build 142 apartments and 2 houses. The housing mix is as follows—

	1 bed	2 bed	3 bed	4 bed	5 bed	Total
Houses	-		1	1	-	2
Apts/Duplex	13	117	12	-	-	142
Total	13	117	13	1	-	144

3.2. The apartments would be provided in four blocks 4 or 5 storeys high, and in four duplex blocks three storeys high. A creche of 69m² and a communal room of 82m² are also proposed. The floor area of the proposed development is given as 12,726m². 169 car parking spaces would be provided, with 128 at basement level, 250 bicycle parking spaces are proposed.

4.0 Planning History

PL06F. 246404. Reg. ref. F15A/0303 – The board granted permission on 8th August 2016 for a development of 68 apartments and 10 houses on part of the site. The planning authority had decided to grant permission.

F17A/0615 – the planning authority granted permission on 18th April 2018 for 86 apartments and 10 houses on part of the site.

5.0 Policy

5.1. National Policy

The government published the National Planning Framework in February 2018. 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 the 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

5.2.1. The Fingal County Development Plan 2017-2023 applies. The northern part of the site is zoned residential under objective, the southern and eastern part for community infrastructure under objective CI. Residential development is not permitted on the latter zoning. It is noted that section 11.5 of the plan refers to non-conforming uses which is stated to include situations uses that have valid permissions. Objective Z05 is to generally, permit reasonable intensification of, extensions to and improvement of premises accommodating non-conforming uses, subject to normal planning criteria. A specific objective, No. 113, applies to the residentially zoned land stating that development there shall not exceed three storeys. A symbol appears on the map indicating an objective to protect trees and hedges. Objective DMS57 sets a standard that residential development should provide 2.5ha of open space per 1000 population. Objective DMS57a requires 10% of site area to be public open space.

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 and Material Contravention

- An Architectural Design Statement
- A Housing Quality Assessment
- An Infrastructure Design Report
- A Site Specific Flood Risk Assessment
- An Appropriate Assessment Screening Report
- An Ecological Impact Assessment
- A Traffic and Transport Assessment

6.2. **Statement of consistency and Material Contravention**

The proposed development is described as an amendment to the development authorised under F17A/0615. The layout is justified by the need to provide a separate access to the school, the protection of trees on the site and the character and amenities of the area and neighbouring houses, and the provision of range of house types. The proposed would provide 144 homes rather than the authorised 96. It would have a communal facility at basement level. Duplex units are proposed in place of 10 of the authorised houses. The proposed apartment blocks are 1 or 2 storeys higher than the authorised ones and the footprint has been increased. The layout of the authorised and proposed developments are similar. Works to provide the authorised access to the site and the school have commenced. An email from the board indicated that the proposed development would constitute strategic housing development. An appropriate assessment screening report concluded that the proposed development will not cause impacts on any Natura 2000 site and that AA is not required. The proposal is well below the thresholds for EIA.

The proposed development of housing within the built up area of the city would comply with various national and regional policies. The road layout would avoid long stretches without frontage and would comply with DMURS. With the terms of the apartment design guidelines from 2018 the site would be an intermediate urban location within 1km of a train station and so would be suitable for a development of mostly apartments. The mix of units types would comply with SPPR1 of the guidelines, the floor areas would comply with SPPR3, the proportion of dual aspect units at 68% would comply with SPPR4, the ceiling heights would comply SPPR5, the number of apartments per core would comply with SPPR6. The council and the

board have previously accepted that the site was suitable for residential development after site specific flood risk assessments in previous cases. In relation to the 2009 sustainable urban residential guidelines from 2009, the proposed development provides a suitable use of urban land while respecting the amenities of other properties. It complies with the criteria set out in the design manual that accompanies those guidelines. A childcare facility is proposed in line with the guidelines on that topic.

There was disagreement between the applicant and the council regarding the amount of open space required in the authorised development under the standards set out at PM52 of the development plan. The standards indicate that 5,570m² of public open space would be required for the proposed development. The proposed central open space would be 5,736m², and 1,046m² of communal open space would be provided in the courtyard between the apartment blocks. The proposed development would comply with the residential zoning of the main part of the site. The provision of access for housing across land zoned for community use was previously deemed acceptable by the council and the board on previous applications. The proposed development would materially contravene objective 113 of the development plan that specifies that buildings on this site would not be higher than 3 storeys. This contravention is justified by the 2018 guidelines on urban development and building heights, in particular SPPRs 1 and 3, and various other national policies in favour of sustainable development including the 2018 apartment design guidelines. The proposed development would respect of the protected structures at the convent and St. Fintan's Church.

6.3. Planning Authority Submission

It appears as if parks of Blocks B and C are on lands zoned for community use. The extent of the residential zone on the site needs to be demonstrated. The net density of 81 dph is acceptable. The proposal would be a material contravention of the development plan due to its contravention of local objective 113. There should be a greater separation of block B from the sports hall. The design and layout of the apartments is generally in keeping with 2018 design guidelines. The parking standards in the development plan would require 242 spaces while only 169 are proposed. The council has serious concerns about the shortfall in parking of less

than 1 space per home and that this will lead to traffic and parking concerns in neighbouring areas. The impact of the development on the protected structure at the convent is not a concern but more information is needed regarding the potential effect on the one at St. Fintan's Church. The flood risk assessment should be revised to take account of the impact of climate change. Revised drainage proposals should be provided to address the fact that the council does not take permeable paving in charge and the 100 year storm event may have a duration long than 6 hours. The open space requirement for the proposed development would be 6,100m² and there is a shortfall of 3,300m² in the proposal. Also 10% of the site should be public open space and a playground of 4m² per home should be provided. A development contribution will be sought in lieu of same. The AA screening report does not refer to feeding on green areas by Brent Geese. The report concludes that the documentation submitted with any application should clarify the number of units, provide photomontages and propose public art under objective DMS05 of the development plan.

The report from the council's architects queried whether white brick was an appropriate finish and the use of steel frame balconies. The layout is well considered. The Transportation Section has no general objections except that one space per home is the minimum practical parking provision. The report from the Parks Division stated that a contribution will be sought in respect of public open space generally and playgrounds under section 48 of the planning act. None of the open spaces will be taken in charge by the council.

6.4. Other submissions

Irish Water reports that it has issued a confirmation of feasibility for 144 homes on the site.

6.5. The Consultation Meeting

A section 5 consultation meeting took place at the offices of the board on 13th June, 2019 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. Height, design and compliance with national policy and the provisions of the development plan

- ii. The standard of amenity for occupants and the potential impact on the amenities of neighbouring properties
- iii. Appropriate assessment issues
- iv. Any other issues

With regard to item i) the board's representatives sought clarification on contravention of development plan provisions, the relative extent of zonings on the site, and the proposed materials and design. The council noted that the proposed would be contrary to a specific objective for 3 storey buildings in the development plan but it was cognisant of changes in national policy. The prospective applicant also referred to the 2018 guidelines on building heights. Additional photomontages can be prepared to show the impact of the development on St Fintan's Church. Discussion have occurred with the school to ensure that it was satisfied that undue overlooking would not occur. The proposed development would only extend 4m² further into the CI zone than the permitted one. It can be pulled back if necessary. The proposed brick materials would not require excessive maintenance. Its light colour is appropriate to the coastal location.

In relation to item ii) the council expressed concern about the outlook available from the apartments closest to the sports hall. The prospective applicant stated that the living rooms in those apartments would face open space. Their orientation can be addressed in the submitted Housing Quality Assessment. The council expressed concern about a shortfall of open space. A special contribution in this regard would be expended on works at the Racecourse Park and playgrounds. The prospective applicant stated that it did not consider that there would be shortfall from the open space standards in the development plan. The board's representatives stated that sufficient information would be required from the council regarding specific exceptional costs not covered by a contribution scheme before a special contribution under section 48(c) of the planning act was imposed due to the absence of an appeal mechanism under SHD. The council also stated that details of tree protection would be required. The prospective applicant stated that site works had commenced under the previous permission and that no additional trees would need to be removed.

In relation to item iii) the board's representatives sought clarification about AA screening having regard to the evolving jurisprudence on the matter. The prospective applicant stated that it was aware of recent court decisions which would be addressed in the documentation submitted with any application. The council queried the sequence of survey and assessment carried out by the prospective applicant.

In relation to item iv) the board's representatives should clarification on flood risk assessment. The prospective applicant stated that floor levels would be 0.5m over the 1 in 200 year flood level of 3.6m OD and runoff rates would be attenuated to greenfield rates. The council referred to its written submission on the matter. The prospective applicant stated that no part of the development was intended to be taken in charge. All of the proposed apartments would have at least one car parking spaces with an additional space for some of the larger units, leaving 13 visitor spaces. The council said that this level of parking would have to be justified by management proposals. Charging of electric cars should be facilitated. The council stated that the board should be aware of the cumulative impact of many housing developments with reduced car parking in an area such as Howth which is inherently reliant on car parking.

7.0 Conclusion and Recommendation

Based on the entirety of the information before me, it not clear 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 which refers to "land zoned for residential use and a mixture of residential and other uses", having regard to the location of a part of the proposed housing on land zoned for community infrastructure under zoning objective CI in the Fingal County Development Plan 2017-2023.

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 documentation as it relates to the use zoning objective CI for community infrastructure that applies to part of the site under Fingal County Development Plan 2017-2023, having regard to the definition of 'strategic housing development' in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 which refers to 'land zoned for residential use or a mixture of residential and other uses' and the prohibition at section 9(6)(b) of that act against the board granting a permission under the SHD procedure that materially contravened a development plan in relation to the zoning of land.
2. Further consideration of the documentation as it relates to the Natura 2000 network and the sites designated as part of it, having regard to the existing condition of the application site and that which would be authorised under the extant planning permissions that apply to it, and also having regard to the evolving interpretation of the law implementing the Habitats Directive in Ireland.

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. The Minister for Culture, Heritage and the Gaeltacht, (in relation to nature conservation and architectural heritage)

3. The Heritage Council (in relation to nature conservation and architectural heritage)
4. An Taisce — the National Trust for Ireland (in relation to nature conservation and architectural heritage)

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 layout plan showing the proposed development in relation to the zoning objectives that apply to the site under the county development plan.
2. An analysis of daylight and sunlight available to the proposed apartments adjoining properties after completion of the development, including the open spaces serving them.
3. An assessment of the impact of the proposed development, with appropriate visualizations, on the character of the surrounding area including the setting of the protected structure at St. Fintan's Church.
4. A housing quality assessment which provides the specific information regarding the proposed apartments required by the 2018 Guidelines on Design Standards for New Apartments. The assessment should also demonstrate how the proposed apartments comply with the various requirements of those guidelines, including its specific planning policy requirements. A building lifecycle report for the proposed apartments in accordance with section 6.13 of the 2018 guidelines should also be submitted.
5. A report demonstrating compliance with the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the minister in December 2018 in accordance with SPPR3 of those guidelines
6. 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.

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,
27th June 2019