



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-304524-19

Strategic Housing Development

536 residential units (104 houses and 432 apartments), community rooms, gym and crèche.

Location

Sybill Hill, Raheny, Dublin.

Planning Authority

Dublin City Council.

Prospective Applicant

Marlet Property Group.

Date of Consultation Meeting

28 June 2019.

Date of Site Inspection

24 June 2019.

Inspector

Stephen Rhys Thomas.

1.0 Introduction

- 1.1. 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 remains largely unaltered from a recent planning application for an almost identical proposal. The site description below is taken from the Planning Inspector's Report for ABP-300559-18, and amended where necessary:
- 2.2. The subject site is located approximately 5km from Dublin city centre, in the established neighbourhood of Raheny, Dublin 5. It has a stated area of 6.4 hectares, is roughly rectangular in shape, aside from a narrow strip that runs westward to provide for access onto Sybil Hill Road (R808). The site forms part of lands associated with St. Paul's College, a boys' secondary school, and the college structures are located to the west of the site. An existing residential development, known as 'The Meadows' is also located to the west of the site, as is Sybil Hill House, a Protected Structure. The site is bound to the east, south and north by St. Anne's Park.
- 2.3. The majority of the site is under grass (long summer growth) and much of the boundary with St. Anne's Park consists of a steel fence, finished in a dark green colour. Along the northern boundary of the site is the remaining part of what is stated to be part of the walled garden of Maryville House, now demolished. The site slopes gradually from a high point of 27.66m OD at the north-eastern boundary to a level of 21.43m OD at the south-eastern boundary. There are a number of mature trees on site and it is well screened on all sides. A high wall forms the boundary between it and 'The Meadows' and a line of deciduous trees are located near this boundary.

Along all three sides between the park and the application site is a belt of mature trees.

3.0 Proposed Strategic Housing Development

3.1. A Residential development of 536 no. units comprising 104 no. houses and 432 no. apartments. The houses will be laid out in 4 courtyard perimeter blocks of 26 units each, and will comprise 96 no. terraced 3-bedroom units and 8 no. detached 4-bedroom units. The apartments will be accommodated in 6 no. blocks ranging in height from 5 to 8 storeys (over basement), detail as follows:

- Block 1 (5 to 8-storeys) will accommodate 143 no. units comprising 48 no. 1-bedroom, 92 no. 2-bedroom and 3 no. 4-bedroom units.
- Blocks 2 and 4 (8-storey) will each accommodate 63 no. units comprising 15 no. 1-bedroom, 39 no. 2-bedroom and 9 no. 3-bedroom units.
- Blocks 3 and 5 (5-storey) will each accommodate 39 no. units comprising 9 no. 1-bedroom, 24 no. 2-bedroom and 6 no. 3-bedroom units.
- Block 6 (5-storey) will accommodate 85 no. units comprising 59 no. 1-bedroom and 26 no. 2-bedroom units. Balconies will be provided on all elevations.

3.2. Demolition of 1 no. existing pre-fab classroom structure.

3.3. Community Rooms at ground and basement level of Block 1;

Gym and Crèche facility at ground floor in Block 6;

Two areas of public open space east and west of apartment blocks;
substation/switchroom buildings;

Basement level providing 434 no. car parking spaces, 864 no. bicycle parking spaces, refuse storage and plant;

3.4. And all road, landscaping and footpath works.

3.5. The application will be accompanied by an EIAR and NIS.

3.6. The development is part of a larger scheme that includes the provision of a sports centre and all weather pitches for St. Paul's College at the southern end of the

school complex, to the west of the development site. These are the subject of a separate planning application to Dublin City Council, currently on appeal with ABP.

The following details are noted:

Parameter	Site Proposal
Application Site	6.4 ha
No. of Units	536 units
Other Uses	Community rooms - 601.5m ² Gym -130.6m ² Creche -259m ²
Height	3 – 8 Storeys
Car Parking	665
Bicycle Parking	884
Vehicular Access	Sybil Hill Road (R808)
Residential Density	86 dwellings per hectare
Part V	10% of units

The breakdown of unit types is as follows:

House Type	No.	% of total units
3 bed	96	18
4 bed	8	1.5
Total	104	

Unit Type	No.	% of total units
1 Bed	155	29
2 Bed	244	45.5
3 bed	33	6
Total	432	

4.0 Planning History

4.1. Subject Site

ABP-302225-18

Permission refused for demolition of existing pre-fab classroom structure, construction of 536 no. units (104 no. houses and 432 no. apartments), widening and realignment of an existing vehicular access onto Sybil Hill Road to facilitate the proposed access road with footpaths and on-road cycle tracks from Sybil Hill Road and Sybil Hill House (Protected Structure) and St. Paul's College incorporating new accesses to Sybil Hill House and St. Paul's College and associated site works.

Two reasons that relate to Appropriate Assessment; (1) exclusions from the NIS and (2) ex-situ site importance.

This decision is now the subject of a judicial review challenge by the Applicant. High Court Record No. 2018/880 JR, has been heard, the High Court has yet to deliver its judgment.

Permission was previously permitted by the Board for ABP-300559-18, same as above, but the decision was judicially reviewed, quashed and remitted to the Board.

4.2. Adjacent sites

3777/17 and ABP-301482-18 Current Application at St Pauls College

An application was lodged with Dublin City Council on 4th September 2017 for a development on the grounds of St Paul's College, to the immediate west of the subject site, comprising demolition of 3 no. existing school structures and construction of a 2 storey sports hall, 2 no. all-weather playing pitches and associated parking. No decision.

4242/15 PL29N.246250 Adjacent Site to North of St. Paul's College

Relating to a 0.68 ha site to the north of Sybill Hill House and west of The Meadows. The Board granted permission for the demolition of nos. 1, 1A and 1B Sybil Hill Road and the construction of 76 no. dwellings comprising 8 no. 2 and 3 bed houses and 68 no. 1, 2 and 3 bed in 2 no 3 to 5 storey blocks, also crèche, community/café and basement car park with 105 car spaces.

5.0 National and Local Planning Policy

5.1. Section 28 Ministerial Guidelines

5.1.1. 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 section 28 Ministerial Guidelines are:

- 'Urban Development and Building Heights Guidelines for Planning Authorities' - 2018
- 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities' - 2018
- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual') 2009
- 'Design Manual for Urban Roads and Streets' 2013
- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices')
- 'Childcare Facilities – Guidelines for Planning Authorities' 2001
- 'Architectural Heritage Protection - Guidelines for Planning Authorities' 2011

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

5.2. Dublin City Development Plan 2016-2022

5.2.1. Zoning objective Z15 – Institutional and Community, ‘to protect and provide for institutional and community uses and to ensure that existing amenities are protected’. Residential units open to consideration. There is a requirement for proposals on Z15 zoned lands to be accompanied by a masterplan that sets out a clear vision for the zoned lands, to provide for the identification of 25% of the lands for open space and/or community facilities, in lieu of the 10-20% of public open space normally provided for in development plan standards (does not apply if the footprint of the existing buildings > 50% of the total site area of the institutional lands) The following standards also apply within Z15:

- Plot ratio 0.5 – 2.5
- Indicative site coverage 50%

5.2.2. Section 16.7 Building Height. Low rise outer city. Up to 16m / 5 stories for residential. Up to 24 m / 8 stories for residential within 500m of DART station.

5.2.3. Development plan map J strategic transport and parking areas. The entire development site is within zone 2 “the development is in close proximity to good transport links”. Car parking provision in zone 2 is restricted on grounds of proximity to public transport. Residential car parking standard of 1 space /dwelling. No standard for crèche. Cycle parking 1 per unit for all zones.

5.3. Section 247 Consultation(s) with Planning Authority

5.3.1. It is stated by the prospective applicant that a pre-application consultation took place with the planning authority on 18 February 2019.

6.0 Forming of the Opinion

6.1. 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.

6.2. Documentation Submitted

- 6.2.1. 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. This information included, inter alia, the following:

Completed application form; existing site layout / site location map; site layout; wind desktop study; waste management plan; Traffic and Transport Assessment and Mobility Management Plan; preliminary EIAR; Statements of Consistency reports; Considered Statement Report; St Paul's Masterplan 2019; Planning Report; Updated Part V Documentation; Landscape Masterplan, accompanying documents and proposed areas to be taken in charge by Dublin City Council; sunlight/daylight report; Engineering Services Report and engineering drawings; Flood Risk Assessment; Public Lighting Report; Outline CEMP, AA Screening Report and NIS Report; Conservation Report; CGIs and Photomontage Report; Building Life Cycle Report; Arborist Report and drawings with tree protection plan; Architectural Drawings and Design Statement including consistency with guidelines statements; consent correspondence from Orsigny and maps; legal correspondence A L Goodbody; correspondence from the Department of Education and Skills; Correspondence from Irish Water; Part V validation letter from Dublin City Council; section 247 consultations records; Draft TIA and Mobility Management Plan.

- 6.2.2. 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, as required.

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

6.3. Planning Authority Submission

- 6.3.1. In compliance with section 6(4)(b) of the 2016 Act the planning authority for the area in which the proposed development is located, Dublin City Council, submitted a copy

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 20 June 2019.

6.3.2. The planning authority's 'opinion' sets out their position relative to the comments that they have already made in relation to pre-application consultation SHD0003/17 and ABP reference TC0023. For clarity I have included the following matters as they were previously set out and summarised, as follows:

- *The planning authority considers that the Statements of Consistency do not provide a sufficiently rigorous assessment of the relevant national, regional and local policy contexts. The most significant issue is whether the development fully complies with the Z15 objective.*
- *The masterplan for proposals for Z15 lands is to ensure that the development facilitates potential future public use and protects existing sporting and recreational facilities which are available predominantly for community use. The applicant must demonstrate:*
 - *That both the needs of the school and the community will continue to be satisfactorily met on the site, i.e. the retention of the main institution and any community uses by local sports clubs, including allocating spaces for any necessary expansion of such uses and the retention of existing functional open space, e.g. school playing fields.*
 - *That the requirement for the provision of 25% of public open space is met on the lands surplus to requirements, i.e. associated with any future residential development.*
- *The Dept. of Education has confirmed that the existing and future needs of St. Paul's College will continue to be met on site. However, it is not clear whether this will be the case for the needs of local sports clubs. The pitches are intensively used by the local community. Current proposals under reg. ref. 3777/17 will result in 3 pitches in place of 7 existing. The applicant has not satisfactorily demonstrated that the site is surplus to the requirements of the local community and that the development will protect existing sporting and recreational facilities which are available predominantly for community use.*

- *Z15 requirement that 25% of the lands deemed to be 'surplus to requirements' shall be allocated as public open space and/or community facilities on site. 21.3% of the proposed development is public open space. No objection to this shortfall due to proximity to St. Anne's Park, subject to a financial contribution in lieu of the 25% requirement, to be invested in the improvement and enhancement of St. Anne's Park. Any public open space within the development will not be taken in charge.*
- *Proposed layout is considered satisfactory. No objection in principle to the proposed site coverage, plot ratio and density. Does not consider that the development would have a detrimental impact on adjoining residential amenities or on the visual amenities of the area or St. Anne's Park.*
- *Parks & Landscape Services comment that access to St. Anne's Park should be improved by path connections to the northeast and southeast corners of the site but no access to St Anne's Park main avenue. Recommendations for tree retention and removal are generally acceptable.*
- *Z15 objective, any development at the perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development and avoid abrupt transitions of scale between zonings. The heights are generally considered to be compliant with the development plan. No objection in principle to minor incursions above the permitted height limits where the 8 story blocks encroach slightly beyond the 500m radius of the Dart line and where height restrictions would normally be capped at 16m.*
- *The site is likely to be used by Brent Geese for winter feeding, linkage to Bull Island SPA. Inadequate information to confirm if the loss of the site, or cumulative future losses with any similar sites in Dublin supporting this species, will cause a decline in their population.*
- *The applicant has engaged with the Housing Dept. in relation to Part V and has identified units for consideration.*
- *Roads & Traffic Planning Division. Existing pedestrian crossing at Sybill Hill Road to be relocated to the south to avoid conflict with new vehicular access, also new pedestrian crossing to the north of the access to serve the*

development. Links to St. Anne's Park would improve walking times to the Howth Road bus facilities and Harmonstown Dart station. Proposed parking provision exceeds development plan maximum standards without justification. Proposal to have carriageway taken in charge with footways and parking in control of management company is not acceptable as it would result in confusion and car parking directly adjacent to the public road cannot remain private. Traffic generated by the development can be accommodated on the existing road network.

6.3.3. New or reaffirmed issues raised in the current 'opinion' are outlined as follows:

- **Zoning** - The planning authority reiterate their concerns with regard to the Z15 zoning of the lands the subject of the application and note the changed circumstances in relation to sporting club relocation and the uncertain outcome in relation to DCC reference 3777/17 for new pitches. Notwithstanding the planning authority's concerns in relation to meeting all the requirements for Z15 lands such as open space configuration (preference for a single area of 25% site total), the planning authority acknowledge that the reasons for refusal did not relate to zoning concerns.
- **Height** – in the context of the building height guidelines, it would be preferable if the taller buildings were located in the middle of the site and not detract from views within St Anne's Park.
- **Biodiversity** – the report of the DCC Parks Department outlines the deficiencies of the NIS in light of the reasons for refusal issued by the Board in the previous application.
- **Internal Reports** – the content of the Drainage Division and Roads and Traffic Planning Division should be noted and addressed in any application.

6.4. **Submissions Received**

Irish Water

Confirmation of Feasibility issued for this site for 566 no. residential units development. Advises that subject to a valid connection agreement being put in place, the proposed connections to the Irish Water networks can be facilitated. The proposed development, as assessed for the Confirmation of Feasibility, is a standard

connection, requiring no network or treatment plant upgrades for water or wastewater by either the customer or Irish Water

6.5. Consultation Meeting

6.5.1. A section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 28 June 2019, commencing at 2.30 pm. 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.

6.5.2. The main topics raised for discussion at the tripartite meeting were based on the Agenda that issued in advanced and contained the following issues:

1. Planning Policy and Regulatory Environment – National and Local
2. Reasons for Refusal – previous application
3. Any other matters

6.5.3. In relation to the Planning Policy and Regulatory Environment – National and Local, ABP representatives sought further elaboration / discussion on:

- The publication of new planning guidelines and regulations since the previous planning application was lodged. Any proposals should incorporate the advice contained therein and be referenced in the documentation submitted.
- The prospective applicant acknowledged that planning guidance had changed and that any new issues form part of the proposal.

6.5.4. In relation to the issue of Reasons for Refusal – previous application, ABP representatives sought further elaboration / discussion on:

- The importance of dealing with the issues as presented by the Board in their reasons for refusal on the previous application. The ‘reasons’ should be the starting point to inform improvements to the NIS.
- The applicant noted the reasons for refusal and survey work has been ongoing to provide a robust scientific basis for the NIS.

6.5.5. In relation to Any other matters, ABP representatives sought further elaboration / discussion on:

- A planning report that details a chronology of events, specifically in relation to recent planning applications and legal challenges.
- Address the concerns as detailed by the planning authority and provide a rationale for the proposed development that departs from the planning authority's point of view.

Both the prospective applicant and the planning authority were given an opportunity comment and respond to the issues raised by the representatives of ABP. Those comments and responses are recorded in the 'Record of Meeting 304524' 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.

7.0 Conclusion and Recommendation

- 7.1.1. 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.
- 7.1.2. 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.
- 7.1.3. In addition, the pre-app documentation provides little or no new information that differs from that previously submitted as part of a planning application under ABP-300559-18. The principal argument advanced by the prospective applicant is that the proposal as it stands was firstly permitted by the Board subject to minor alterations by condition, ABP-300559-18 refers. That decision was judicially reviewed, quashed and remitted to the Board, and ultimately refused permission ABP-302225-18 refers. I consider that there is no material change, other than matters that pertain to

Appropriate Assessment, between the previous application documentation and the current section 5 consultation process. Consequently, I have confined myself to the additional documentation that would be needed to address the reasons and relevant notes set out by the Board in relation to their decision to refuse permission.

- 7.1.4. 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: constitutes a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 7.1.5. 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.

8.0 Recommended Opinion

- 8.1.1. 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.
- 8.1.2. 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.

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. Natura Impact Statement (NIS) to assess potential effects on relevant designated sites with regard to their conservation objectives, including potential effects associated with the usage of the development site by specific species for winter feeding. Particular attention is drawn to the reasons for refusal issued in relation to ABP-302225-18, relevant points raised by statutory consultees and the planning authority, all in order to prepare a comprehensive and suitably robust NIS. All relevant research and field survey results should be attached as appendices.

2. A planning report that includes:
 - (a) detailed chronology of all relevant planning applications on or adjacent to the site, including legal challenges or judgements as appropriate.
 - (b) an up to date planning report should also include all references to relevant guidelines and regulations published since the previous application was lodged.
 - (c) a report and/or drawings that clearly show any changes between that previously applied for and that which it is now intended to apply for.

3. A layout drawing that shows all relevant open space areas, roads and pedestrian linkages to St. Anne's Park proposed to be taken in charge by the planning authority.

8.2. 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. The Minister for Culture, Heritage and the Gaeltacht (in relation to archaeological heritage protection and nature conservation)
2. The Heritage Council
3. An Taisce
4. An Comhairle Ealaíonn
5. Fáilte Ireland
6. Irish Water
7. Transport Infrastructure Ireland
8. National Transport Authority
9. Relevant 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
Senior Planning Inspector
05 July 2019

