



An  
Bord  
Pleanála

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

## Inspector's Report on Recommended Opinion

### ABP-304706-19

---

|                                      |   |
|--------------------------------------|---|
| <b>Strategic Housing Development</b> | 102 residential units (75 apartments and 27 apartments), and all associated site development works. |
| <b>Location</b>                      | Ballybane More Road, Ballybrit, Co. Galway.   |
| <b>Planning Authority</b>            | Galway City Council.  |
| <b>Prospective Applicant</b>         | Trean Meadow Limited  |
| <b>Date of Consultation Meeting</b>  | 18 July 2019.   |
| <b>Date of Site Inspection</b>       | 14 July 2019.   |
| <b>Inspector</b>                     | Kenneth Moloney.  |

## 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 site is located in Ballybrit, Co. Galway in the eastern outskirts of Galway City, approximately 6 – 7 kilometres from the city centre. The subject site fronts onto the Ballybane More Road which is the former Ballybrit Road, and currently is a minor road with a speed limit of 50kph. The Ballybane More Road connects the Briarhill District Centre, east of the appeal site, to the R339. The R339 provides direct access to the city centre.

The Ballybane More Road provides a divide between suburban type development situated to the north and rural land uses to the south. The suburban development to the north is predominately two-storey and single storey housing developments however there are some single storey bungalows on individual sites located to the north of the Ballybane More Road. The appeal site, which is located to the immediate south of the Ballybane More Road, is rural in character. There are one-off houses located to the immediate east and west of the appeal site.

The subject site measures 1.86 ha (4.6 acres) in size and the shape of the subject site is irregular. The site has approximately 170 metres of road frontage onto the Ballybane More Road. The site comprises of poor-quality grazing land with stone wall and hedge boundaries. A significant feature of the site are the rising gradients from the front (north) of the site adjoining the public road to the rear of the site. There

is a reservoir located to the immediate south of the subject site. There are no pedestrian facilities adjacent to the site.

### 3.0 Proposed Strategic Housing Development

The proposed development which is subject of this pre-application consultation request comprises 102 residential units (75 apartments and 27 houses), as follows:

#### Apartments

- 10 – 1 bed units – 13.3%
- 61 – 2 bed units – 81.3%
- 4 – 3 bed units – 5.3%

#### Houses

- 2 – 1 bed units – 7.4%
- 6 – 2 bed units – 22.2%
- 16 – 3 bed units – 59.2%
- 3 – 4 bed units – 11.1%

Gross residential density is 56 units per hectare and the public open space provision is measured as 17% of the site area.

The proposed development includes 3 no. vehicular entrances onto the Ballybane More Road and provision for a public footpath to the front of the site.

### 4.0 National and Local Policy

#### **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:

- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’)
- ‘Design Manual for Urban Roads and Streets’
- ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’ – 2018

## **Local Policy**

### Galway City Development Plan 2017-2023

The site is zoned Residential Land in the Galway City Development Plan 2017-2023.

The objective for Residential Lands is to *‘provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods’*.

The Ballybane More Road, adjoining the appeal site, is identified as a ‘Road Objective’ within the Plan.

The adjoining land use to the immediate south of the subject site is ‘Agriculture and High Amenity’.

There are no specific objectives associated with the site, the following sections of the development plan are relevant: Chapter 2 Housing and Sustainable Neighbourhoods, Chapter 3 Transportation, Chapter 4. Natural Heritage, Recreation and Amenity, Chapter 8. Built Heritage and Urban Design, Chapter 9. Environment and Infrastructure and Chapter 11. Land Use Zoning Objectives and Development Standards and Guidelines.

## 5.0 Planning History

### Subject site:

L.A. Ref. 06/532 – Permission **granted** for 54 no. dwellings comprising of 4 single storey semi d type dwelling units, 16 ground floor dwelling units, 34 terraced 2 storey dwelling units, car parking, landscaping and site works.

### Nearby Sites:

There are a number of permissions for domestic residential development in the vicinity. These permissions are generally all over 10 years old.

### Section 247 Consultation(s) with Planning Authority

It is stated by the prospective applicant in the submitted documentation that Section 247 pre-application consultations took place with the planning authority on 27th February 2019. Details of the meeting are submitted.

## 6.0 Forming of an 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 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

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 information submitted included the following: a Completed Application Form; site layout plans and architectural and engineering drawings, AA screening report, planning report and statement of consistency, Ecological Impact Assessment, Solar Shadow Analysis, engineering services planning report, Traffic and Transport Assessment, building life cycle report, Apartment and Residential Quality Audit, Architectural Design Statement Report, photomontage document, Archaeological Assessment, Irish Water notification of Confirmation of Feasibility, Part V plans, Landscaping Layout and schedule.

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

### **Planning Authority Submission**

In compliance with section 6(4)(b) of the 2016 Act the planning authority for the area in which the proposed development is located, Galway City 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 12th July 2019.

The planning authority's 'opinion' included the following matters: planning history, plot ratio, zoning, policies relating to residential, density, residential amenity, urban design, open space / private amenity space and landscape/play areas.

The planning authority concluded that the design of the development would not accord with the principles of good urban design, the density of the development is excessive given the local context, the quality and functionality of the open space is substandard, the private amenity space serving a number of apartments is poor quality. The Planning Authority are not convinced that there is surplus of capacity of childcare facilities in the local area to cater for a development that has a potential occupancy of 200 persons.

## **Submission from Irish Water**

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.

## **The Consultation Meeting**

A section 5 Consultation meeting took place at the offices of Galway City Council on the 18th July 2019, commencing at 2:15pm. 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 based on the Agenda that issued in advance and contained the following issues:

1. Development Strategy and justification for the site
2. Urban Design / Architectural Approach, movement and connectivity, streetscape, layout, design, side / front elevations, car parking layout
3. Residential Amenity – open space,
4. Impacts on surrounding residential amenities
5. Services – 5m Wayleave,
6. Structural stability / excavations and ground water connectivity
7. A.O.B.

In relation to development strategy and justification for the site the prospective applicant outlined that there has been an extensive engagement between the prospective applicant and the Local Authority. The prospective applicant stated that the site is located within close proximity to a district centre, public transport, schools and a hospital. The prospective applicant submitted that the subject site is zoned, is

not a peripheral location and respects the character of the area. The Local Authority considered that the final design did not address the issues raised at the Section 247 meeting.

In relation to urban design ABP representatives sought further elaboration/discussion on the architectural rationale for the proposed site layout. The prospective applicant outlined that the design rationale provides for family homes located to the rear of the site to avail of views and also to mitigate potential visual impacts from the adjoining lands to the south which are zoned 'High Amenity'. The proposed site layout provides for open space adjoining the High Amenity land. The Local Authority considered that the proposed site layout would present problems given the use of retaining walls, the Irish Water pipeline and site constraints. The Senior Executive Parks Engineer of Council outlined a range of concerns and this includes the following;

- All services located within open space not demonstrated
- A play space is located at a busy junction
- Earlier designs were a higher standard
- No levels indicated on the rear public open space
- No details of compliance with Part M Regulations
- Visibility splays
- Incidental open space is not recognised in public open space calculation
- Quality of open space, such as steep embankments is poor.
- Play equipment on wayleave questioned.
- Internal roads are long straights
- Anti-social behaviour on site to the rear.
- Attenuation tanks not to be placed under public open space



The prospective applicant submitted that the sunken patio areas which forms private open space provision for some apartments would benefit from its south facing orientation. The prospective applicant confirmed that they would engage with their Landscaping team regarding Local Authority concerns outlined above. ABP representatives advised that there should be no conflict between technical drawings and computer-generated images.

In relation to open space the Local Authority submitted that bio-diversity needs to be addressed and connectivity to the park, situated to the south of the subject site, needed to be facilitated. ABP representatives advised the retaining walls shall be justified and explained how it will be treated.

The Local Authority advised that single storey elements should be placed on the upper areas of the site to mitigate impacts on adjoining residential amenities.

ABP representatives sought further elaboration/discussion on services and the Local Authority confirmed that the subject proposal would be adequately served by services. There was a discussion on public footpath connectivity and the prospective applicant was advised to investigate missing sections of footpath connectivity locally. The issue of taken in charge would have to be clarified.

In relation to site structural stability, ABP representatives sought further elaboration/discussion on the issue and questioned the applicant to outline any issues. The prospective applicant stated that site investigations were carried out and that the bedrock lies between 0.5m – 3m below the ground level. The prospective applicant confirmed that the site layout has avoided bedrock drilling.

In relation to the other matters, representatives of the Local Authority stated that it would not concur with the conclusion that the proposed development would be adequately catered for in terms of childcare provision. Finally, the Local Authority

advised that the number of electric charging points for cars shall comply with minimum standards.

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 '304706' 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

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 applicants, the submissions of the planning authority and the discussions which took place at the tripartite meeting. I have had regard to both national policy, via the section 28 Ministerial Guidelines and local policy via the statutory plans for the area.

Having regard to all of 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. Development Strategy and Layout

Further consideration of the design strategy and overall layout for the development of the site. The proposal should provide for a more integrated approach of the open spaces and street/road access throughout the site. The open spaces should have a clear hierarchy with specific uses/functions, these should be overlooked and provide focuses for the proposed residential use on the site. Left-over or incidental areas of

open space should be minimised (or eliminated). Residential units backing onto open spaces or street/car parking areas within the site should be avoided. Changes in ground levels across areas of open space should be clearly indicated. The development should provide for a positive contribution to the public realm, in that regard the relationship/interface of the proposed development with the Ballybane More Road should be clarified at application stage (cross-sections and street elevations should be provided demonstrating the nature of the development at this frontage). The layout should prioritise pedestrian and cycle access in compliance with DMURS. The revised strategy should clearly demonstrate that regard was had to the 12 criteria as contained in the 'Urban Design Manual – A best practice guide' that accompanies the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (May 2009). Cross-sections and long-sections should accompany the application that clearly indicate how changes in ground levels across the site are being integrated in the design solution for the development of the site. The applicant should also demonstrate that proposed sunken terraces/patios do not result in substandard form of residential amenity for the occupants of the residential units (access to daylight and sunlight should be demonstrated at application stage).

## 2. Connectivity to Local Area

Further consideration of the documents as they relate to pedestrian facilities connecting the proposed development with the wider area. The consideration should have regard to the 'Design Manual for Urban Roads and Streets' which prioritises pedestrians in the user hierarchy. The consideration should also have regard to the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' and the associated 'Urban Design Manual' which seek to minimise the need for car journeys and encourage walking and cycling and the creation of well-connected new communities (see section 4.10 in the Guidelines and Criteria No. 2 in the Design Manual). Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

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. A report prepared by a suitably qualified and competent person demonstrating all constraints including site levels, landscape sensitivity and geology to the subject site and how the proposal successfully overcomes the site constraints to achieve an accessible, integrated, permeable site layout and design.
2. Detailed landscape drawings that illustrate the public open space provision, including space with play equipment. The public open space shall be usable space, accessible and overlooked to provide a degree of natural supervision.
3. A layout drawing at an appropriate scale that details specifically any road and footpath improvements, if any, and how they will integrate with the development as proposed.
4. A report prepared by a suitably qualified and competent person demonstrating specific compliance with the requirements set out in the Design Manual for Urban Roads and Streets and the National Cycle Manual, as well as a map illustrating pedestrian, cycle and vehicular links through the site and connectivity with the wider area.
5. Details as they relate to water services infrastructure that traverse the site, including but not restricted to the opportunities for maintenance access purposes and any other reasonable requirements detailed by the relevant authorities, such as Irish Water. This shall include any other utilities that may traverse the site.

6. Proposals for the taking-in-charge of the development, if applicable.
7. A report that specifically addresses the proposed building materials and finishes and the requirement to provide high quality and sustainable finishes and details.
8. A report that addresses issues of residential amenity (both existing residents of adjoining development and future occupants), specifically with regards to overlooking, overshadowing and overbearing. The report shall include full and complete drawings including levels and cross-sections showing the relationship between the proposed development and adjacent residential development.
9. A construction and demolition waste management plan.
10. A report prepared by a suitably qualified and competent person that outlines all site investigations and geo-technical assessments.
11. A childcare assessment that demonstrates a rationale for non-provision of a childcare facility with the proposed development. The assessment shall also be based on consultation with key stakeholders.

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. The Galway County and City 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.

---

Kenneth Moloney  
Planning Inspector

26th July 2019