



An  
Bord  
Pleanála

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

## Inspector's Report on Recommended Opinion ABP-304724-19

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<b>Strategic Housing Development</b>	211 apartments
<b>Location</b>	Porterstown, Dublin 15
<b>Planning Authority</b>	Fingal County Council
<b>Prospective Applicant</b>	Kimpton Vale Ltd.
<b>Date of Consultation Meeting</b>	31 <sup>st</sup> July 2019
<b>Date of Site Inspection</b>	26 <sup>th</sup> July 2019
<b>Inspector</b>	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 c11km north-west of the city centre. It has a stated area of 3.77ha and in a partially built housing scheme known as Windmill. The southern boundary of the site runs along the Royal Canal. Its western boundary runs along the embankment to the recently constructed bridge over the canal and railway along the Diswellstown Distributor Road. The land to the north of the site is occupied by 2-storey houses at St Mochta's, from which there is no access to the site, and by duplex units at Windmill Court through which the access to the site runs. The northern part of the site includes 4 existing apartment buildings between 3 and 5 storeys high and a basement car park. The rest of the site has been subject to groundworks but there are no buildings upon it. The railway station at Coolmine is c800m to the east of the site on foot. The town centre at Blanchardstown is c2km to the north.

## 3.0 Proposed Strategic Housing Development

3.1. It is proposed to provide 211 apartments in 3 blocks between 6 and 8 storeys high. The housing mix would be as follows –

	Studio	1 bed	2 bed	Total
Apartments	10	67	134	211

- 3.2. The development would include a communal amenity space for residents of 220m<sup>2</sup>. The total floor area is stated to be 18,335m<sup>2</sup>.
- 3.3. The blocks would be in the western part of the site just south of the existing blocks, forming two enclosed spaces in conjunction with them. The proposed blocks closer to the existing ones would be 6 storeys high, rising to 7 and then 8 storeys at the south-western corner close to the bridge over the railway. An area along the west of the site would not be developed and is described as a reservation for the Metro West light railway. The southern part of the site would be laid out as open space along the canal, as would the east-central part of the site. The stated area of the public open space is given as 2.2ha.
- 3.4. The proposed apartments would be served by 258 car parking spaces, including 185 spaces in the existing basement which the prospective applicant states have not been provided for the use of the occupants of the existing apartments. 317 bike parking spaces would be provided.

#### 4.0 **Planning History**

FWA15A/0145 – permission was granted by the planning authority for 143 apartments on the site in blocks 5 and 6 storeys high.

#### 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),

## 5.2. Local Policy

The Fingal County Development Plan 2016-2022 applies. The north-western part of the site is zoned residential, the rest of it for open space. There are objectives to provide a cycleway from the Diswellstown Road along the southern boundary of the site, and to reserve a route from Metro West along the west of the site.

## 6.0 Forming of the Opinion

### 6.1. Documentation Submitted

The prospective applicant submitted extensive documentation including drawings of the proposed development and various reports including—

- A Planning Report and Statement of Consistency
- Architectural Design Statement
- A Housing Quality Assessment
- An EIA Screening Report
- An Engineering Report
- A Landscape Rationale
- An Arboricultural Report
- An Sustainability / Energy Statement

- A Daylight/Sunlight Analysis
- Photomontages
- An Construction Management Plan
- A Public Lighting Plan

## 6.2. Statement of consistency

The proposed development would supersede that permitted on the site under FWA15/0145 and is designed to conform with the standards on apartment design and building height adopted by the minister in 2018, increasing the number of apartments from 143 to 211 and increasing the height from 5 and 6 storeys to 6 and 8 storeys. The layout is similar. The development would increase the number of apartments on the landholding of 6.38ha at Windmill from 194 to 395. The gross density on the land would be 63.5dph while the density on the land zoned residential would be 125dph. This is appropriate for a site on a public transport corridor following the advice in the 2009 guidelines. The area of the site that is zoned residential and not subject to the Metro West reservation is 1.58ha.

63.5% of the apartments would have more than one bedroom while 56% would have more than one aspect. This complies with the requirements of the 2018 apartment design guidelines, as would the minimum floor areas and private open space for the apartments. It is not considered necessary to provide another childcare facility in addition to that provided in the previous phase of development beside the site.

1,313m<sup>2</sup> of communal open space would be required under the apartment design guidelines, while 2,506m<sup>2</sup> of such space would be provided in the proposed court yards. The existing 194 apartments would be served by 217 car parking spaces with at least one allocated to each of the apartments by the management company. The 211 proposed apartments would have 260 car parking spaces. The provision of slightly more than 1 space per dwelling is appropriate for a location close the railway station and in keeping with the advice in the 2018 guidelines on apartment design. 327 cycle parking spaces would be provided.

20,000m<sup>2</sup> of public open space would be provided, as well as 2,651m<sup>2</sup> of communal open space. 1,750m<sup>2</sup> has already been delivered in previous works on the site. The total open space on the site would therefore be 2.44ha or 38% of the landholding,

which is much more than the 15% recommended in the 2009 sustainable urban residential guidelines. So part of the zoned open space on the landholding is being omitted from the proposed open space. A daylight and sunlight assessment has been submitted which concluded that all living and bedrooms would meet BRE guidelines as would existing rooms when judged against the permitted development on the site.

The proposal would facilitate a connection to an adjoining street at St Mochta's for emergency access. The provision of the connection would require implementation by the planning authority. The existing creche in the neighbourhood caters for 110 children. Having regard to the proportion of studio and one-bedroom units that are proposed, the provision of another childcare facility is not warranted.

The proposed residential development on land in the city on a public transport corridor at a suitably high density would be in keeping with various national and regional policies. The proposed heights are justified under the 2018 guidelines on the topic due to the proximity to the railway station at Coolmine and the situation of the blocks overlooking the open space and canal to the south. The site is in flood risk zone C where residential development is acceptable in principle under the 2009 guidelines on that topic.

Reports are submitted which indicate that the proposed development would be unlikely to have significant effects on the environment or any Natura 2000 site, and so neither EIA nor appropriate assessment would be required.

The proposed development is consistent with the zonings of the site under the Fingal County Development Plan 2017-2023. The proposed greenway would be in keeping with that objective in the development plan. The permitted development would result in 33,130m<sup>2</sup> of public open space to serve 337 apartments which was a surplus of 8,455m<sup>2</sup>. 11 apartments would be provided to the council under Part V in addition to another 23 units provided otherwise on the site.

### **6.3. Planning Authority Submission**

The site is on a public transport corridor and the consolidation area at Blanchardstown identified in the development plan. The principle of higher density development on the site is therefore accepted. The context provided by the canal

and elevated viaduct render higher buildings appropriate. The separation distances from the existing apartments are inadequate. No constraints on physical infrastructure have been identified. The housing mix is a concern, as is the impact on schools and childcare facilities. The proposal does not adequately provide for the comprehensive development of open space in accordance with the zoning of most of the site. It excludes a significant piece of land zoned for such. It is not clear how the use of the basement car park will impact on the amenity and parking for existing apartments. The development would be prominent and high quality materials and finishes are required. Details of a pedestrian permeability across the site from the north-west to the south east should be provided, as well as a walking/cycling route along its southern boundary.. Further details are needed of surface water drainage and attenuation.

#### **6.4. Other submissions**

Irish Water stated that it had issued a confirmation of feasibility for 204 units and that it could facilitate the proposed connections to its networks, although these would be through third party networks.

#### **6.5. The Consultation Meeting**

A section 5 consultation meeting took place at the offices of the board at 1100 on Wednesday, 31<sup>st</sup> July 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. Development Strategy including design, height, density, layout and housing mix
- ii. Residential Amenity for Occupants and Neighbours, including compliance with standards and access to daylight/sunlight and proximity to the Metro West reservation
- iii. Access and parking
- iv. Drainage and Water Supply
- v. Any other issues

6.6. In relation to item i), the board's representatives stated that the documentation submitted with any application would need to set out the design rationale for the proposed development concisely and demonstrate compliance with applicable planning policies with reference to specific information about the proposed development and its circumstances. It would also need to clearly describe the previous and permitted development on the prospective applicant's landholding and the site and its relationship with any proposed development, particularly with regard to open space and parking in compliance with applicable standards. Repetitive or generalised assertions may not be helpful in this regard. The submitted statement of consistency would need to be revisited to achieve these requirements. Given the limitations on the time available for consideration of SHD applications and on requests for further information, confusion on these matters could hinder a grant of permission.

The council referred to its written submission. The capacity of the site to provide a substantial amount of housing at a suitable density and height was recognised, as was the benefit to the amenity of local residents and the wider area from the provision of open space and a better built environment there. While the layout of the proposed development reflects previous permissions on the site, it could be revisited to address concerns expressed in the council's submission. The suitability of the share of studio and one-bedroom apartments was questioned.

The prospective applicant outlined the emergence of the layouts for development of its landholding referring to previous permissions and a former railway reservation, the omission of which led to the layout authorised under the 2015 permission. The proposed development retains much of this layout but responds to the revised standards on height and apartment design in the 2018 guidelines, including the ability to relax car parking standards on public transport corridors. The layout provides for very generous courtyards with wide separation distances across them. The existing blocks anticipated the completion of courtyards in such a manner, with secondary windows on the elevations adjacent to proposed blocks. The revised height would provide better frontage in the vicinity of an elevated road and canal/railway corridor. The proposed materials are of a higher standard with more brick, with a scheme at Honeypark presented as an exemplar.



The council queried the rationale for the relative extent of the red and blue line boundaries. It stated that the central area omitted from the red line was required to be provided as open space to complete previous permissions. The prospective applicant stated that they had been superseded by the permission granted in 2015. The board's representatives stated that the matter, or at least the parties' position on it, should be clarified in the documentation submitted with any application. The board's role was restricted to development management and it would not try to carry out the council's functions as the authority for forward planning or enforcement.

- 6.7. In relation to item ii) the prospective applicant confirmed that the proposed apartments were designed to comply with the 2018 standards. Additional daylight studies had been carried out to identify the impact of the development on existing apartments compared to the situation with no development, as well as to that which would arise from the permitted development on the site. Because the layout of the existing apartments was known, the average daylight factor for rooms could be calculated. This factor is more instructive than the vertical sky component. The studies indicated that the proposed development would have some impact, but to an acceptable extent. The council stated that the documentation needed to be clearer about the impact on facilities for residents of the existing apartments including bins and bike storage. A proper boundary treatment would need to be provided between car parking and open space, as well as bike parking by the multi-use games area. The board's representatives stated that some consideration should be given to the possible impact of Metro West on apartments at the western side of the site, given that the railway could be elevated at this location over the level of ground floor apartments.
- 6.8. In relation to item iii), the council stated that the provision of permeability through the site was crucial. In particular the pedestrian link from the north-western corner of the site which would provide better connectivity from other housing towards the train station. The design of the greenway along the canal was progressing and the prospective applicant should consult to ensure that any application was compatible with it. The representatives of the board pointed out the proposed car parking on land zoned as open space under the development plan, and referred to the constraints on the determination as to whether material contraventions arose following recent court decisions. The prospective applicant sought clarification on

the matter. The board's representatives stated that the issue could not be determined in a pre-application consultation. They also referred section 4.19 of the 2018 guidelines on apartment design which stated a policy for car parking to be minimised in accessible locations including those served by railway stations. The council stated that the impact on the surrounding road network would probably be acceptable, but that the traffic modelling should account for some understatement in the TRICS databased regarding the traffic generated by apartments. Further details should be provided of the emergency access from St. Mochta's. A greater degree of clarity was required on the share of parking allocated to serve existing and proposed apartment blocks. A parking rate of 1 space per apartment may be acceptable close to the railway station, but more visitor parking may be required. The suitability of the ramp access and parking facilities for bikes would need to be demonstrated. The prospective applicant stated that the allocation of parking spaces was controlled by the management company for the scheme. In relation to item .

- 6.9. In relation to item iv) the council stated that there did not appear to be significant constraints on the site with regard to drainage or water supply. A site specific flood risk assessment should be submitted, but it is likely to that the site is in flood risk zone C. It was noted that the canal is at a significantly lower level than the ground on the site.

## 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 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/amendment of the submitted documentation as it relates to the development strategy for the site and its consistency with national and local planning policy. The documentation should concisely set out the justification for the scale, design and housing mix of the proposed development by referring to: the specific characteristics of the proposed development and the surrounding area; the provisions of guidelines issued by the minister under section 28 of the planning act; the county development plan; and any other policies that may be material to the application. Undue repetition and generalised assertions should be avoided. The necessary information should be included in the statement required under section 8(1)(iv)(I) of the Planning and Development (Housing) and Residential Tenancies Act 2016. It should be noted that the section 9(6)(b) of that act prevents a grant of permission under the SHD process where a development, or any part of it, materially contravenes the zoning of land under a development plan.
2. Further consideration/amendment of the submitted documentation as it relates to the previous development on the prospective applicant's landholding. The documentation should describe that development and its relationship with any proposed development concisely and accurately, particularly with regard to access and the provision of amenities including open space, parking for cars and bicycles and bin stores. The documentation should address compliance with applicable development management standards with regard to both the proposed and existing housing. It should also address the impact of proposed development on compliance with any

outstanding obligations to occupants of existing housing or under previous planning permissions.

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. National Transport Authority
3. Transport Infrastructure Ireland
4. Waterways Ireland

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. Plans showing connections from and through the proposed development for pedestrians, cyclists and vehicles. The submitted information should demonstrate that the proposed development would facilitate the development plan objective to provide a greenway along the Royal Canal, as well as providing details of a pedestrian link from the public road to the northwest and of emergency access from St. Mochta's.
2. 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.

3. A mobility management plan that would *inter alia* describe the management of the demand for parking of cars and bicycles arising from the proposed development and the existing housing in the vicinity, including details of the allocation of specific parking facilities to them. Regard should be had to the policy at section 4.19 of the Guidelines on Design Standards for New Apartments issued in 2018 about car parking standards in accessible locations on public transport corridors. Details of the facilities for bike parking should demonstrate that they can accommodate a suitable number and a wide range of types of bicycle, with safe and convenient access from the housing.
4. A study of the impact of the proposed development on daylight and sunlight available to existing and proposed homes, including associated private and public open space.
5. Proposals for compliance with the requirements of Part V of the planning act.
6. A plan showing the areas which it is proposed that the council would take in charge.
7. A Site Specific Flood Risk Assessment Report..
8. A draft construction management plan and a draft waste management plan.

**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.

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Stephen J. O'Sullivan

Planning Inspector,

8<sup>th</sup> August 2019