

**An
Bord
Pleanála**

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

**Inspector's Report on
Recommended Opinion
ABP-305571-19**

Strategic Housing Development

Location	36, 38, 40 Herbert Park and 10 Pembroke Place, Ballsbridge, Dublin 4
Planning Authority	Dublin City Council
Prospective Applicant	Lordglen Ltd
Date of Consultation Meeting	November 21 st 2019
Date of Site Inspection	November 17 th 2019
Inspector	L. Dockery

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 and the documentation received from the prospective applicant, 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 subject site, which has a stated area of 0.46 hectares, is located on the eastern side of Herbert Park Road, close to the centre of Ballsbridge. The site currently contains three large 20th century houses, Nos 36, 38 and 40 Herbert Park Road. Each of these properties has access onto Herbert Park Road.
- 2.2 The entrance to Herbert Park is located directly to the south of the subject site. On the opposite side of the roadway, is a depot for DCC Parks Department. Pembroke Place is located to the north-east, which accommodates a terrace of two-storey dwellings. The site directly to the east is currently under construction for a four-storey, mixed use development.

3.0 Proposed Strategic Housing Development

- 3.1 The proposal comprises the demolition of three no. habitable houses at No. 36, 38 and 40 Herbert Park Road and construction of 105 residential units, a 5th floor extension to the existing aparthotel (10 bedroom units) and all ancillary site works.

The development is outlined as follows:

Parameter	Site Proposal
Application Site	0.46 ha
No. of Units	105 apartments
Other Uses	10 new aparthotel bedrooms as 5 th level extension to existing apart-hotel- 440 m ² Private shared amenity facilities
Height	4-11 storeys over double basement
Car Parking	97 spaces at basement level
Bicycle Parking	130 spaces at surface level
Vehicular Access	From Herbert Park Road
Part V	10 units on site (2 x one-bed; 8 x two-bed)
Density	228 units/ha

The breakdown of unit types is as follows:

Unit Type	1 bed	2 bed	3 bed	
Apartment	36	67	2	105
% Total	34.3%	63.8%	1.9%	100%

A letter, signed by Samantha Scanlon (dated 24th September 2019) is attached to the file, giving consent to Lordglen Ltd to make this pre-application submission to An Bord Pleanála, as it relates to land within her control. A map outlining land within her control is attached. In addition, a letter from Dublin City Council (dated 19th September 2019) is attached to the file which states that they have no objection to the inclusion of these lands as hatched green on attached map, for the purpose of

making a SHD application to An Bord Pleanála, without prejudice to the outcome of the planning application process.

Irish Water correspondence submitted with the documentation states that in relation to:

Water:

The connection should be made to the existing 100mm Ductile Iron watermain to the rear of the development site. Noted that CoF to connect to IW infrastructure does not extend to fire flow requirements.

Wastewater:

New foul sewer connection to the existing combined network is feasible without upgrade. Surface water inflow into the combined sewer is not permitted. The development has to incorporate Sustainable Drainage Systems on available green land or a connection to the 2300mm Dodder River surface water culvert for the management of storm water. Full details to be agreed with Dublin City Council- Drainage Division.

4.0 National and Local Planning Policy

4.1 National

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:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)
- Sustainable Urban Housing: Design Standards for New Apartments (2018)
- Design Manual for Urban Roads and Streets (2013)
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)

- Childcare Facilities, Guidelines for Planning Authorities (2001)
- Architectural Heritage Protection- Guidelines for Planning Authorities (2011)

4.2 Local

The Dublin City Development Plan 2016-2022 is the operative County Development Plan.

The main bulk of the subject site is zoned 'Objective Z1' which seeks to 'protect, provide and improve residential amenities'. Residential use is permitted under the Z1 zoning objective.

A small section of the site, which relates to the previously approved aparthotel element, is zoned 'Objective Z4' which seeks to 'provide for and improve mixed service facilities'. Residential use is permitted under the Z4 zoning objective.

Section 16.7 Building Height in a Sustainable City

Within the height strategy, the subject site is categorised as a low-rise, outer-city site. It is not located within an area which is identified as suitable for 'High Rise' or 'Medium Rise' development. Section 16.7.2 sets a general height limit of 16m in the outer city, or 24m at rail hubs which are defined as within 500m of Luas stops.

The site is located within Area 2 (Map J) for car parking provision and parking standards are set out in Table 16.1, which allow a maximum of 1 car space/residential unit and 1 space/room for the aparthotel use. Table 16.2 sets a minimum standard of 1 bicycle parking space per residential unit.

5.0 Planning History

The most recent relevant history pertaining to this site is as follows:

4741/18

Permission GRANTED for change of use from office to medical clinic at ground and lower ground floor levels at 10 Pembroke Place

4321/18:

Permission GRANTED for alterations to aparthotel at 10 Pembroke Place and No.s 36 and 38 Herbert Park, (parent permissions 3391/15 and 2051/17)

3970/17 (ABP-300976-18):

Permission GRANTED for amendments to previously permitted development 3391/15 (PL29S.246002) at 10 Pembroke Place

2051/17

Permission GRANTED for extension to aparthotel and amendments to office at 10 Pembroke Place (parent permission 3391/15)

2826/16

Permission REFUSED for change of house type to 2 x apartments and 2 x duplex units and additional storey to residential building permitted under Ref. 3128/14 due to impacts on residential enmities and height.

3391/15 (PL06S.246002)

Permission GRANTED for demolition of existing vacant office building and construction of mixed use scheme at 10 Pembroke Place – increase of approximately 1200 square metres over that permitted under Ref. 3128/14

3128/14

Permission GRANTED demolition of existing vacant office building and construction of mixed use scheme at 10 Pembroke Place

6.0 Section 247 Consultation(s) with Planning Authority

6.1 It is stated that two pre-application consultations took place with the planning authority on 04/07/2019 and 15/08/2019.

7.0 Submissions Received

Irish Water

Confirmation of Feasibility issued for this site for 106 no. residential units. The proposed development, as assessed for the CoF, 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 this connection to take place. Therefore, based on the CoF issued by Irish Water, it is confirmed that subject to a compliant water and wastewater layout and a valid connection agreement being put in place between IW and the developer, the proposed connection(s) to the Irish Water network(s) can be facilitated.

8.0 Forming of Opinion

7.0.1 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 brief detail on each of these elements hereunder.

7.1 Documentation Submitted

8.1.1. 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, completed application form, scaled drawings (plans, sections and elevations), planning report, Design Statement, technical Document, Statement of Consistency, letters of consent, Irish Water Pre-Connection Enquiry letter, Part V details, Engineering Planning Report, Flood Risk

Assessment, Landscape Design Rationale, Verifiable Views; Construction, Demolition and Operational Waste Management Plan; Archaeological Impact Assessment and Landscape and Visual Impact Assessment.

8.1.2. I have considered all of the documentation submitted by the prospective applicant, relating to this case.

8.2 Planning Authority Submission

8.2.1 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 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 4th November 2019.

8.2.2 The planning authority's 'opinion' included the following matters: site description, proposed development, planning history, pre-planning consultations, statement of consistency, development plan context, zoning, design and height, landscaping plan; access, traffic and transportation; assessment of units/residential amenity; daylight analysis; open space-communal; impact on receiving environment; environmental issues; drainage; community and social infrastructure; housing and Part V and internal reports. Report concludes that

- PA has some concerns regarding overall design of the proposal in terms of elevational treatment of the entire block and the slenderness ratio of the corner, landmark block
- Corner element could be further refined by further increasing the slenderness ratio and by simplifying the elevational details
- SW elevation facing Herbert Park does not present a well-mannered and coherent form when viewed from the park as it is a mix of materials, architectural details and differing shoulder heights
- Additional height could be accommodated at this location, however overall aesthetic should be well considered and high quality
- Concerns regarding overall visual impact of proposal in terms of external materials proposed and their suitability within the context of the site and

surrounding environment- recommended that palette of materials be carefully reviewed and presented as part of full application

- Proposal is very close to boundary with two-storey dwellings on Pembroke Place and impact on these dwellings should be carefully considered. Impact of balconies on upper levels of NE and NW elevations should be carefully considered and should include details to mitigate against overlooking
- Consider providing additional storage at basement level for any units that heavily rely on bedroom furniture for storage purposes
- VIA should include additional images that show proposed development when surrounding deciduous trees do not have full leaf cover
- Where proposed development includes construction of a basement, any planning application submitted after 3rd Feb 2020 shall include a Basement Impact Assessment as part of planning application.
- Recommendations of Transportation Planning Department and Drainage Division attached

8.2.3 I have reviewed and considered all of the documentation submitted by the planning authority relating to this case.

8.3 Consultation Meeting

8.3.1 A Section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 21st day of November 2019, commencing at 9.45 am. 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.

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

- Development strategy for the site to include elevational treatment, open space/public realm and connectivity
- Visual and residential amenity
- Surface Water Drainage
- Transport matters
- Any other matters

8.3.3 In relation to development strategy, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- Clarity as to whether this is a Build-to-Rent scheme or otherwise
- Justification for height proposed
- Elevational treatments/expression; requirement for a high quality architectural design and finish
- Open space provision and the desire to ensure that it is functional and usable
- Interface between proposed development and public realm; usability and access for all; landscaping
- Connectivity through the site

8.3.4 In relation to visual and residential amenity, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- Visual impacts of proposal on surrounding area, including from within Herbert Park
- Visual Impact Assessment to include images that show proposed development when surrounding deciduous trees do not have full leaf cover
- Potential impacts of proposal on existing residential properties in vicinity, in particular those located on Pembroke Place and those within residential conservation areas; documentation to be submitted addressing possible issues overlooking, overshadowing, overbearing
- Compliance with Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018); internal amenity standards; separation distances; microclimatic assessment; daylight/sunlight analysis; schedule of floor areas; storage areas

8.3.5 In relation to surface water drainage, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- Report of Engineering Department- Drainage Division of planning authority (dated 25/10/2019), as contained in Appendix B of Chief Executive Opinion

8.3.6 In relation to transport matters, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- Report of Transportation Planning Division of planning authority (dated 30/10/2019), as contained in Appendix B of Chief Executive Opinion

8.3.7 In regards to other matters, An Bord Pleanála sought further elaboration/discussion/consideration of the following:

- Justification for non-provision of childcare facility
- Submission of schedule of floor areas; phasing details; taking in charge/management of proposed scheme; building lifecycle report;
- Submission of ecological survey; landscaping/boundary treatments; submission of CGIS/visualisations/cross sections; discrepancies between information; waste management and EIAR

8.4 Conclusion and Recommendation

8.4.1 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.

8.4.2 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.

8.1 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.**

8.2 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.

9.0 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 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. A report that specifically addresses the proposed materials and finishes of the proposed structures including specific detailing of finishes, openings, the treatment of balconies, landscaped areas and boundary treatments. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details which seek to create a distinctive character for the development. Particular regard should also be had to details showing proposals for the treatment of the interface between the proposed buildings

and public realm. The documents should also have regard to the long term management and maintenance of the proposed development.

2. A report, including CGIs, visualisations and cross sections, as necessary, which clearly show the relationship between the proposed development and existing, nearby development.
3. A report that addresses issues of residential amenity specifically with regards to overlooking, overshadowing, overbearing and noise. The report shall include full and complete drawings including levels and cross-sections showing the relationship between the proposed development and adjoining residential development. Furthermore, landscape and architectural drawings that clearly detail the relationship between wind impact mitigation measures and the design of the proposed development shall be included. In this regard, potential micro-climate issues, including potential issues of down draft should also be addressed, together with any mitigation measures proposed, if considered necessary.
4. A report which clearly addresses measures for the protection of trees, including those located within Herbert Park, during the course of construction works.
5. A detailed schedule of accommodation which indicates consistency with relevant standards in the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018).
6. A detailed landscaping plan for the site which clearly sets out proposals for hard and soft landscaping including street furniture, where proposed, which ensures that areas of open space are accessible, usable and available for all. Details relating to the materiality of the proposed interface between proposed development and adjoining lands should be also submitted. Additional cross sections, CGIs and visualisations should be included in this regard.
7. Site Specific Construction and Demolition Waste Management Plan
8. A life cycle report in accordance with section 6.3 of the Sustainable Urban Housing: Design Standards for New Apartments (2018).
9. Additional details in relation to surface water management for the site, having regard to the requirements of the Drainage Division (dated 25/10/2019) as

indicated in the Planning Authority's Opinion. Any surface water management proposals should be considered in tandem with a Flood Risk Assessment specifically relating to appropriate flood risk assessment that demonstrates the development proposed will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk.

10. Additional details in relation to traffic and transport matters, having regard to the requirements of the Transportation Planning Division (report dated 30/10/19) as indicated in the Planning Authority's Opinion.

11. Waste Management Plan

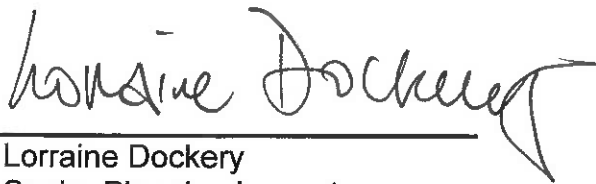
12. Information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018, submitted as a standalone document

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. National Transport Authority
2. Transport Infrastructure Ireland
3. Irish Water
4. Dublin 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.



Lorraine Dockery
Senior Planning Inspector

10th December 2019

