



An
Bord
Pleanála

Inspector's Report ABP-305785-19

Development

Amendments to Cherrywood SDZ
Planning Scheme – Residential Car
Parking Standards (Section 4.2.10 of
the Planning Scheme 2014 as
amended).

Location

Cherrywood, Co. Dublin

Planning Authority

Dun Laoghaire-Rathdown County
Council

Planning Authority Reg. Ref.

N/A

Applicant(s)

Dun Laoghaire-Rathdown County
Council

Type of Application

Amendment of SDZ Planning Scheme

Inspector

Paul O'Brien

1.0 Introduction

- 1.1. The Government designated lands at Cherrywood as a Strategic Development Zone (SDZ) on the 25th of May 2010. The Cherrywood lands include a large area of circa 360 hectares located to the east/ south of the M50 and to the south west of the N11. The R118 regional road crosses through the site on a north east to south west axis, connecting the N11 with the M50. Development at different stages is underway in a number of locations on the Cherrywood lands. Tully Vale and Druid Valley residential developments are outside of the Cherrywood SDZ lands.
- 1.2. Dun Laoghaire-Rathdown County Council, as the designated Development Agency for the SDZ, prepared a Planning Scheme for the SDZ which was approved by the Council on the 10th of December 2012. The Planning Authority gave notice of its decision to make a Planning Scheme for the Cherrywood SDZ on the 17th of December 2012. 16 no. appeals were made to the Board and it was decided to hold an Oral Hearing into these appeals, **ABP Ref. ZD06D.ZD2010** refers. The Planning Scheme was modified by a Board Order that was issued on the 25th of April 2014.
- 1.3. An application under **ABP Ref. ZE06D.ZE0002** was submitted by Dun Laoghaire-Rathdown County Council to the Board in January 2017 to amend the approved Planning Scheme. The application sought to update the Planning Scheme to incorporate changes prompted by the *Sustainable Urban Housing: Design Standards for New Apartment Guidelines* and also to revise the sequencing of retail development within the town centre. The Planning Authority was advised to initiate public consultation procedures in accordance with Section 170A(7) of the Planning and Development Act 2000 as amended. The Planning Authority subsequently advised the Board that it was withdrawing the proposed amendment.
- 1.4. An application under ABP Ref. **ABP-302223-18** was submitted by Dun Laoghaire-Rathdown County Council to the Board in September 2018 to amend the approved Planning Scheme under Section 170A(1) of the Planning and Development Act 2000 as amended. The amendments proposed the replacement of Chapter 7 of the Cherrywood Planning Scheme with a new one, that was updated to reflect the front loading of infrastructure and the implications of such provision for the timing of development. Infrastructure in the form of roads, public transport infrastructure and public parks were provided, and which serves the first, second and third growth

areas as detailed in the planning scheme. The Board decided to approve the amendments to the Cherrywood planning scheme having regard to the submitted details, the minor nature of the amendments, the Inspectors report, the immateriality of the amendments and that there are no changes to the quantum of residential and employment development proposed. Strategic Environmental Assessment (SEA) and Appropriate Assessment (AA) did not arise due to the limited nature of the amendments and the scope of the already completed SEA and AA for the adopted scheme.

2.0 The Process

- 2.1. The process whereby amendments to a planning scheme for a Strategic Development Zone (SDZ) can be made is set out in Section 170A of the Planning and Development Act, 2000 as amended.
- 2.2. A summary of the statutory provisions is provided as follows.
 - Under sub-section (1) of this Section, a Planning Authority may make an application to the Board to amend a planning scheme.
 - Under sub-section (2), the Board shall make a decision as to whether or not the proposed amendment constitutes a material change to the planning scheme.
 - Under sub-section (3)(a) where the amendment fails to satisfy the criteria of sub-section (3)(b), the Board shall require the planning authority to amend the planning scheme in compliance with section 169. The criteria detailed in sub-section (3)(b) include that the amendment, (i) would not constitute a change in the overall objectives of the planning scheme, (ii) would not relate to already developed land in the planning scheme, (iii) would not significantly increase or decrease the overall floor area or density, (iv) would not adversely affect or diminish the amenity of the area.
- 2.3. If such an amendment would lead to changes that would only be minor in nature, then, provided there is no need for SEA or AA, the Board may, under sub-section (4)(a), approve this amendment to the planning scheme.
- 2.4. If the proposed amendment would constitute a material change to the planning scheme, then sub-section (4)(b) becomes crucial. Before the Board approves such

an amendment, or an alternative amendment of no greater significance, the provisions of the following sub-sections shall be complied with.

- Under sub-section (5), the Board shall screen the proposed amendment, or its alternative, for SEA and AA. If SEA and/or AA are required, then under sub-section (6)(b) the planning authority shall be required to undertake preparation of the same.
 - Under sub-section (7), the planning authority shall be required to undertake a notification and consultation exercise as set out in this sub-section. Thereafter, under sub-section (8), the planning authority shall prepare a report on the submissions and observations received as a consequence of this exercise. The said report shall be prepared in accordance with the provisions set out in sub-section (9) and the Board shall subsequently, under sub-section (10), have regard to this report.
 - Under sub-section (4)(b) itself, the Board shall determine whether or not the proposed amendment would come within the criteria set out in sub-section (3)(b). If it would do so, then the Board may approve this amendment or its alternative. If it would not do so, then under sub-section (3)(a), the planning authority shall be required to amend the planning scheme in accordance with the procedures set out in Section 169 for the making of a planning scheme.
- 2.5. Under sub-section (11), subject to any SEA and/or AA obligations, if the Board has determined to make the proposed amendment or its alternative, under sub-section (4), then the planning scheme shall be so amended, and the planning authority notified accordingly. If sub-section (7) was activated, then all those who made submissions/ observations shall be notified.

3.0 The Proposal

3.1. Background

- 3.1.1. The proposed amendments, as described by the Planning Authority in their cover letter dated 25th October 2019, refer to the updating of the Planning Scheme so as to align with National Government policy on housing and in particular to take account of the updated guidance on car parking for apartment development as set out in the

‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (DHPLG, March 2018).

3.1.2. In the approved Planning Scheme, residential car parking provision was based on the premise that residents of Cherrywood would not use the car for their daily commute. As planned, future residents of Cherrywood will have easy access to employment and the plan will facilitate their daily commercial, educational and recreational needs. The proposed layout provides for high quality pedestrian/ cycle routes in addition to facilitating public transport. The Planning Scheme specifies a minimum rather than a maximum car parking standard though the car parking provision is reduced from the typical standards set out in the county.

3.1.3. Having regard to the guidance set out in the apartment guidelines, the Local Authority commissioned a review of the car parking standards for Cherrywood; the review was undertaken by AECOM Ireland Ltd. This review sought to establish an appropriate level of parking provision as well as providing for ‘car storage’ and protection of the public realm. The findings indicate:

- Potential to reduce car parking requirements for apartment development in the two lower density zones – Res 1 and Res 2.
- Potential to reduce car parking requirements in all density zones on the basis of the provision of car sharing facilities throughout Cherrywood.
- Potential for the reduction in car parking requirements for studio apartments as a specific unit type.

3.1.4. The proposed amendment takes account of the review findings and proposes to amend Section 4.2.10 of the Planning Scheme. The amendment also addresses Build to Rent (BTR) development having regard to SPPR8 of the apartment guidelines and of which the following is relevant:

Specific Planning Policy Requirement 8

For proposals that qualify as specific BTR development in accordance with SPPR 7:

(i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise;

(iii) There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have

a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures;

- 3.1.5. The Planning Authority consider ‘...that the proposed amendment represents an appropriate locational and area-specific response to the Ministerial Guidelines for the Cherrywood SDZ Area’.

3.2. The Planning Authority’s Proposed Amendment

- 3.2.1. The proposed amendment entails the re-writing of *Section 4.2.10 Car Parking Standards* of the Cherrywood Planning Scheme with reference to the section on residential development only. A copy of the approved (December 2018 version) Planning Scheme and a copy of the amended section 4.2.10, as proposed, have been provided. I will outline the main changes in summary below. (New text to be in **bold** and underlined where significant additions are identified).

- 3.2.2. Specific Objective PI 21 is revised as follows:

It is an objective that car parking within the Planning Scheme be controlled so as to determine car use and promote sustainable travel modes. **For residential development, this objective will be balanced with ensuring adequate car parking facilities are provided to meet car ownership needs in order to avoid any overspill car parking or adverse impacts on the public realm.**

- 3.2.3. Third paragraph is amended through the following addition: ‘...Priority will be given to unloading and service vehicles as well as disabled badge holders **and car sharing proposals**’.

- 3.2.4. Four new paragraphs added. The first recognises the role that car sharing has in potential for reducing car ownership levels. The background/ description of car sharing is detailed and notes that it works well in areas of high density where good public transport is available. Cherrywood would be suitable for such car sharing through its permeable layout, good transport links and potential easy access to car sharing fleets.

- 3.2.5. The next three paragraphs detail the need **‘to ensure that all car parking spaces are future-proofed for Electric Vehicles (EVs) or ‘EV Ready’**. Future proofing at a minimum, in the form of ducting is required. Electric charging points as part of residential and non-residential developments to be in accordance with the

requirements of the current Dun Laoghaire-Rathdown County Development Plan. Applicants to be encouraged to use ‘emerging Smart City innovative technology’ such as pop-up EV chargers, so as to reduce the potential for visual/ street clutter in the public realm.

3.2.6. Under the heading ‘Residential’ the following is added to the first paragraph: **It is important to understand the difference between car usage and car ownership and for any parking standards to take cognisance of car ownership trends. In any development proposed a balance needs to be found between providing car parking in line with car-ownership-needs for residents whilst also ensuring parking is not overprovided. In addition, the provision of car sharing facilities and operators would encourage more environmentally friendly car usage, reduce the need for car ownership and car spaces whilst providing residents with the same mobility freedom.**

3.2.7. The next paragraph gives an introduction to Table 4.4: Residential car parking standards and is amended to include: **The Standards take cognisance of the guidance set out in the Ministerial Guidelines “Sustainable Urban Housing: Design Standards for New Apartments, March 2018”, (DHPLG).**

3.2.8. Table 4.4: Minimum Residential car parking standards is revised to Table 4.4: Residential car parking standards. The following table sets out the differences between the approved Table 4.4 and that proposed for amendment:

Table 4.4 as approved under Planning Scheme		Table 4.4 as proposed	
Town Centre	1 space per unit	Town Centre	<u>0.9</u> space per unit
Neighbourhood Centres	1 space per unit	<u>Village Centres</u>	<u>0.9</u> space per unit
Res 3 and 4	1 space per 1 bed unit. 1.25 spaces per 2 bed unit/ house	Res 1, 2, 3 and 4	<u>0.9</u> space per 1 bed unit. <u>1.2</u> spaces per 2 bed unit/ house

	1.5 spaces per 3 or more bed unit.		<u>1.4</u> spaces per 3 or more bed unit.
Res 1 and 2	1 space per 1 bed unit, 1.5 spaces per 2 bed unit, 2 spaces per 3 or more bed unit		<u>2.0</u> spaces per 3 or more bed house
		<u>All Residential Units/Houses</u>	<u>Minimum 0.01 Car Share space per unit</u>

NOTE: Under Table 4.4 a unit refers to an apartment, duplex or triplex and a house refers to a detached, semi-detached or terraced stand-alone dwelling.

3.2.9. The next two paragraphs are new and state:

A lower standard may be considered for studio apartments in the range of 50 – 70% of the rate applied to a 1 bed unit/apartment, where provision is made for car sharing facilities and operators under a strong central management regime for the development.

For Build-To-Rent (BTR) developments, the relevant Government guidance is set out in Specific Planning Policy Requirement 8 (SPPR 8) of the ‘Sustainable Urban Housing: Design Standards for New Apartments’, 2018 (or as subsequently amended). In the case of Cherrywood, it is considered that there is limited capacity for further reduction of the above car parking standards for BTR, having regard to the fact that these standards already take cognisance of the ambitious modal split targets for sustainable transport modes; proximity to public transport services; and the potential for car sharing. Accordingly, car parking provision for BTR developments shall as a default minimal match the car parking standards for Res 1,2 3 and 4 as set out in Table 4.4 and the standards for studios set out above.

- 3.2.10. The last two paragraphs are revised slightly. Multi-storey car park is replaced with undercroft car park in the penultimate paragraph and '**well considered**' is added before undercroft car parking in the last paragraph.

4.0 **Assessment**

I have assessed the submitted documentation and the proposed amendments clearly relate to the provision of residential car parking provision so as to be in accordance with the 'Sustainable Urban Housing: Design Standards for New Apartments', March 2018. I have assessed the amendments to the Planning Scheme below.

- 4.1. **Section 170A (2): Would the proposed amendments make a material change to the Cherrywood Planning Scheme?**
- 4.1.1. Procedurally, under Section 170A (2) of the Act, the Board is required to address the question as to whether any proposed amendment to a planning scheme would constitute a material change to the planning scheme. Under sub-section 3(a), if such an amendment fails to satisfy the criteria set out in sub-section 3(b), then it is by definition a material change that triggers the procedures set out under Section 169 of the Act. This does not exhaust the possibility that an amendment may be material, as signalled by sub-section 4(b). Thus, if the Board considers that, under sub-section 4(a), an amendment is not "minor in nature" and yet sub-section 3(b) is satisfied, then its materiality triggers procedures set out in the remainder of Section 170A, presumably with the intention of informing the view that the Board takes on such an amendment, i.e. whether to approve it or an alternative amendment of no greater significance.
- 4.1.2. The criteria detailed in sub-section (3)(b) include that the amendment, (i) would not constitute a change in the overall objectives of the planning scheme, (ii) would not relate to already developed land in the planning scheme, (iii) would not significantly increase or decrease the overall floor area or density, (iv) would not adversely affect or diminish the amenity of the area.
- 4.1.3. From the available information, I consider that the amendments to residential car parking provision do not change the overall objectives of the planning scheme. Cherrywood was planned on the basis of promotion of sustainable transport and

provision of high-quality public transport. Employment and services are to be within close proximity to residential areas, thereby reducing the need for car usage. BTR developments to be provided with similar car parking to the other residential types (Res 1 to 4 of the Cherrywood Planning Scheme). Greater recognition of requirements to support Electric Vehicle use and promotion of car sharing schemes are also identified in Section 4.2.10 and again I do not consider that these change the overall objectives of the planning scheme.

- 4.1.4. The proposed amendments do not refer specifically to already developed lands in the planning scheme. It can be assumed that where development is permitted or complete, that it will comply with the requirements of the planning scheme as in force at the time of the grant of permission. In addition, any alteration to a permitted development would have to comply with the requirements as in place at the time of assessment.
- 4.1.5. The proposed amendments would not significantly increase or decrease floor areas and would have no impact on density. The reduction in car parking, though minor, may result in a reduction in the requirement for car parking floor area. However, this may be offset by the need for additional floor area to accommodate Electric Vehicle charging infrastructure and for the parking of car sharing vehicles. It is considered that the impact on floor area would be minor and does not impact on the overall planning scheme.
- 4.1.6. I do not foresee any adverse impact on the amenity of the area due to the revision in car parking, support of Electric Vehicle use and promotion of car sharing. Regard has been had to the potential for illegal parking in the Technical Notes prepared by AECOM, in the preparation of Table 4.4.

4.2. **Conclusion with respect to materiality**

- 4.2.1. I am satisfied that the amendments to Section 4.2.10 are minor in nature and would not lead to a material change in the Planning Scheme approved by the Board.

5.0 Section 170A(4)(a): Do the proposed amendments need to be the subject of SEA and/or AA?

- 5.1. The tests under sub-section (4) of the Act are whether the proposed amendment would have significant effects on the environment or on a European Site.
- 5.2. A Strategic Environment Assessment (SEA) screening report on the proposed amendments, prepared by CAAS Ltd. was submitted to the Board with the application. The report assesses the proposed amendments against the criteria set out in Annex II of Directive 2001/42/EC. It is noted that the Cherrywood Planning Scheme was subject to a full SEA and Screening for Appropriate Assessment (AA). The report finds that the proposed amendments seek to update the planning scheme so as to align with Government Policy on housing and to take account of the ministerial guidance on car parking for apartment development. The amendments do not alter the overall vision and ethos on which the Planning Scheme is based.
- 5.3. Noting that the Planning Scheme was subject to a full SEA and Screening for AA, it is considered that no additional adverse effects arise from the proposed amendments, either significant, potential or uncertain, that were not envisaged and mitigated by the SEA for the Planning Scheme.
- 5.4. Likewise, the report states that the SEA process integrated environmental considerations into the Planning Scheme and found that the Planning Scheme contributes to environmental protection and management and sustainable development. Uptake in smarter and more sustainable modes of transport are promoted further by the amendments. The proposed amendments remain consistent with the policies and objectives of the Planning Scheme, do not influence other plans and no cumulative effects are predicted, no transboundary effects or any risks to human health or the environment are predicted.
- 5.5. The SDZ lands do not form part of a Natura 2000 site or other designated area, and have no landscapes of a recognised national, EU or international protection.
- 5.6. On the basis of the information on the file, which I consider adequate to inform a screening determination, it is considered that the proposed amendments to the Planning Scheme, are not likely to have significant effects on the environment within the meaning of Annex II of Directive 2001/42/EC.

- 5.7. An AA screening report on the proposed amendment was submitted to the Board with the application. The report notes that there are no likely significant direct, indirect or secondary impacts of the project by virtue of size and scale, land-take, distance from Natura 2000 sites or key features, resource requirements, emissions, transportation, duration of construction, operation, and decommissioning.
- 5.8. The report notes that the Cherrywood SDZ Planning Scheme, to which the proposed amendments relate, has undergone an AA Screening as well as a full SEA. It concludes that the proposed amendments to the Planning Scheme, either individually or in combination with other plans and projects would not give rise to significant effects on the integrity of any Natura 2000 site.
- 5.9. On the basis of the information on the file, which I consider adequate to inform a screening determination, and having regard to the nature and scale of the proposed amendments, the nature of the receiving environment, and proximity to the nearest European site, no appropriate assessment issues arise and it is considered that the proposed amendment to the planning scheme would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site. Thus under Section 170A(5), neither SEA nor AA is necessary for the proposed amendment to the Cherrywood Planning Scheme.

6.0 Conclusion

- 6.1. In this report I have firstly addressed the issue raised by Section 170A(2) of the Planning and Development Act 2000 as amended, as to whether or not the proposed amendment would lead to a material change to the Cherrywood Planning Scheme and I have concluded that it would not do so.
- 6.2. Secondly, I have addressed the issue raised by Section 170A(5), as to whether or not the proposed amendment would need to be subject to SEA and/ or AA and I have concluded that it would not.
- 6.3. In light of the assessment that the proposed amendment does not constitute the making of a material change to the planning scheme under section 170A(2), satisfies the criteria of section 170A(3)(b), and that the proposed amendment is not likely to have significant effects on the environment or on a European site, it is recommended that the Board approve the proposed amendment under section 170A(4)(a) and

notify the Planning Authority of the approval of the amendment in accordance with section 170A(11).

7.0 Recommendation

That, under Section 170A(2) of the Planning and Development Act as amended, the Planning Authority shall be notified of the Board's decision that the proposed amendment would not constitute the making of a material change to the Cherrywood Planning Scheme and so, as this amendment would be minor in character, the Board, under sub-section (4)(a) approves the making of the amendment to this Planning Scheme.

8.0 Reasons and Considerations

Having regard to:

- The planning history of the SDZ scheme approved by An Bord Pleanála on 25th April 2014, and to the overall scope and objectives of the approved planning scheme,
- The nature of the proposed amendments which follow from updated government planning guidelines (made under section 28 of the Planning & Development Act 2000 as amended) in relation to residential development standards for car parking, The proposed amendments would satisfy the criteria of section 170A(3)(b) of the Planning and Development Act, and therefore would not be of such a nature as to affect the overall nature of the scheme or require a more fundamental review procedure to be followed.

Having regard to the overall provisions of Section 170A of the Act, the proposed amendments would not be material, given the limited potential to impact on the overall scheme objectives or the character of the overall Cherrywood Planning Scheme area.

The Board adopted the screening assessment carried out by the inspector in relation to the requirement for Strategic Environmental Assessment (SEA) and Appropriate Assessment (AA). The Board agreed with her conclusion that the need for SEA or AA does not arise owing to the limited nature of the proposed amendments and the

scope of the original SEA and AA procedures already completed for the adopted scheme.

Paul O'Brien
Planning Inspector

2nd January 2020