



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion

305866

Strategic Housing Development

161 Build to Rent apartments and associated site works.

Location

Lands at the former TedCastles Site, Dun Leary Road, Cumberland Street and Dunleary Hill, Dun Laoghaire, Co. Dublin.

Planning Authority

Dun Laoghaire Rathdown County Council.

Prospective Applicant

Ted Living Limited.

Date of Consultation Meeting

19 December 2019.

Date of Site Inspection

18 December 2019.

Inspector

Stephen Rhys Thomas.

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

- 2.1.1. The site is located at the junction of Cumberland Street with Dunleary Hill and Old Dunleary Road, west of Dun Laoghaire town centre in County Dublin. The Dublin to Wexford rail line is located to the north and the area around the site is built up with a combination of apartments and older two storey buildings. The site is bound by a high concrete block and stone wall in good repair and is accessed via a large steel gate painted black from Old Dunleary Road. A large two storey over basement dwelling is located to the south of the site and it fronts onto Dunleary Hill. The house is well maintained, it is known as Dunleary House (Yellow Brick House) an objective for its retention is sought by the County Development Plan.
- 2.1.2. The subject site is mostly level with a combination of hard standing and hardcore. The portion of the site adjacent to Dunleary Hill is graded back and planted with trees. Dunleary Hill is significantly higher than the site. A large open storage shed occupies the north eastern portion of the site. The shed is old but in generally good repair.

3.0 Proposed Strategic Housing Development

The proposed development which is subject of this pre-application consultation request comprises 161 build to rent units provided in one apartment block between 4 and 8 storeys on 0.559 Hectares, the detail is as follows:

- 30 x Studio Units (18.6%)

- 101 x 1 Bedroom Units (62.7%)
- 29 x 2 Bedroom Units (18%)
- 1 x 3 Bedroom Units (0.6%)
- 40% of units are dual aspect (65 out of 161 units).
- Residents facilities include: gymnasium (c.73 sqm), multi-functional atrium/reception amenity area (c.203 sqm), residential amenity area (c.97 sqm), residential amenity spaces at levels 03 to levels 06 (c.22 sqm each with a combined area c. 88 sqm), workspace/meeting room (c.30sqm) and a sky lounge facility (c.102 sqm) with external terrace at level 7.
- Café 280 sqm
- Commercial space 144 sqm
- Communal open space is provided in the form of a landscaped courtyard (c.514 sqm) and landscaped terraces with visibility from public areas. Balconies and private gardens are provided to apartments.
- 49 car parking spaces (43 at basement level and 6 at surface level); set down area and bicycle parking (248 spaces).

The site area is 0.559 Hectares and the gross floor space proposed is 14,576 sq.m. Residential density (161 apartments over 0.559 Hectares) 288 units per hectare.

4.0 National and Local Policy

4.1 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:

- 'Urban Development and Building Heights Guidelines for Planning Authorities' – 2018

- ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’ - 2018
- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’)
- ‘Design Manual for Urban Roads and Streets’
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’)
- ‘Childcare Facilities – Guidelines for Planning Authorities’

4.2 Local Policy

The **Dún Laoghaire-Rathdown County Development Plan 2016-2022**, is the operative county development plan and contains general policies and objectives in relation to residential amenity standards. The site is located on land zoned Objective NC - to protect, provide for and improve mixed-use neighbourhood centre facilities.

Specific Local Objective 153 refers to the site; Dunleary House (Yellow Brick House) and associated boundary to be retained in situ and renovated.

The lands are located within the Dun Laoghaire Urban Framework Plan, the site is highlighted as an opportunity site.

Policy RES3: Residential Density provides that it is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development. In promoting more compact, good quality, higher density forms of residential development it is Council policy to have regard to the policies and objectives contained in the following Guidelines:

- ‘Sustainable Residential Development in Urban Areas’
- ‘Urban Design Manual – A Best Practice Guide’
- ‘Quality Housing for Sustainable Communities’
- ‘Irish Design Manual for Urban Roads and Streets’

- 'National Climate Change Adaptation Framework – Building Resilience to Climate Change'

Policy RES14: Planning for Communities – it is Council policy to plan for communities in accordance with the aims, objectives and principles of 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual – A Best Practice Guide'. In all new development growth areas, and in existing residential communities it is policy to ensure that proper community and neighbourhood facilities are provided in conjunction with, and as an integral component of, major new residential developments and proposed renewal/redevelopment areas, in accordance with the concept of sustainable urban villages outlined under Policy RES15.

Other policies and objectives relevant to the site include:

- Section 2 policies on residential development, including the housing strategy and policies RES4 and RES7, public transport policy in section 2.2.8 and roads policy in section 2.2.10.
- Biodiversity policies in section 4.1.3, including Policy LHB19: Protection of Natural Heritage and the Environment and policies on open space and recreation in section 4.2.
- Urban design principles in section 8.1. Section 8.2 policies on residential development, car parking, open space.
- Building Height Strategy set out in Appendix 9.

5.0 Planning History

Subject site:

- PA reference D03A/0292 and ABP reference PL06D.204799 – Permission for a seven storey residential development of 63 apartments and all associated site works.
- PA reference D06A/0312 - Revisions to planning application D03A/0292, to add 4 apartments.

- D3A/0291 and ABP reference PL06D.204798 – Permission for a mixed-use development.

5.1.1. **Section 247 Consultation(s) with Planning Authority**

It is stated by the prospective applicants in the submitted documentation that a Section 247 pre-application consultation took place with the planning authority on 19 August 2019.

6.0 **Forming of an Opinion**

- 6.1.1. Pursuant to section 6(7) of the Act of 2016, regard is had in the forming of the opinion to the documentation submitted by the prospective applicant; the planning authority submissions and the discussions which took place during the tripartite consultation meeting. I shall provide a brief detail on each of these elements hereunder.

Documentation Submitted

- 6.1.2. 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.
- 6.1.3. The information submitted included the following: Cover Letter; SHD Application Form; Planning Report; Record of Pre-Planning Minutes (Appended to Planning Report), Statement of Consistency; Environmental Impact Assessment Screening Report; Engineering Drawings & Drawing Schedule; Infrastructure Design Report; Confirmation of Feasibility from Irish Water; Traffic and Transport Assessment Report; Parking Strategy Report; DMURS Compliance Statement; Site Specific Flood Risk Assessment; Preliminary Culvert Diversion Methodology; Preliminary Construction Management Plan; Ecological Impact Statement; Screening Report for Appropriate Assessment; A Bat Assessment of the Buildings and Lands; Energy and Sustainability Report; Daylight Sunlight Report; Pedestrian Wind Comfort Study; Archaeology and Cultural Heritage; Operational Waste Plan; Building Life Cycle Management Report; Estate Management Strategy Report; Report on the Architectural/Historic Significance of Dunleary House (“Yellow Brick Building”) &

Observations on the Potential Impact of the Proposed Works; Preliminary Landscape and Visual Impact Appraisal; Demographic Drivers and Changing Housing Demands in Dublin Over the Coming Decade; Full set of Architectural Drawings; Architectural Design Statement; Housing Quality Assessment; Part V Booklet (Part V Layout Plan & Schedule of Accommodation Booklet);Landscape Drawings & Schedule of Drawings; Arboricultural Assessment (Tree Survey);Verified View Montages, CGI's and Presentational View's.

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

Planning Authority Submission

6.1.5. In compliance with section 6(4)(b) of the 2016 Act the planning authority for the area in which the proposed development is located, Dun Laoghaire Rathdown County 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 6 December 2019.

6.1.6. The planning authority's 'opinion' included the following matters: a description of the site and surroundings, a brief overview of the proposed development, planning history, the zoning provisions of the Development Plan and any specific objectives for the area and a list of relevant national policy documents. The planning authority's comments included the following:

- **Minutes of Section 247 Consultations** – Minutes are provided within appendix B to the report.
- **Internal Reports** – Reports are noted from Transportation Planning, Drainage Planning, Architects Section, Housing Department, Parks and Landscape, Public Lighting Section and Waste Management.
- **Planning history** – A comprehensive list of planning applications on site.
- **Policy Context** – An outline of relevant policies for the site are detailed in the report. The site is located on land zoned Objective NC - to protect, provide for and improve mixed-use neighbourhood centre facilities and SLO153 refers to the site; Dunleary House (Yellow Brick House) and associated boundary to be retained in situ and renovated. Residential, commercial and café use are permitted in principle. The site is located within the Dun Laoghaire Urban

Framework Plan, the site is highlighted as an opportunity site. The principle of accommodating a higher density development at this location is generally accepted but the removal of the Dunleary House would not accord with the SLO.

- **Building Height** – The site is located along the coastal fringe, for a variety of reasons a location sensitive to height, the planning authority have reservations about the heights proposed. The proposed development does not adequately demonstrate a rationale for greater height at this location in terms of either Development Plan Policy UD1 or section 3.0 of the Building Height Guidelines.
- **Density** – Planning Authority states that the site cannot support the high density proposed and the scheme would be over-development of the site.
- **Apartment standards** – as the scheme proposed is build to rent, compliance with the guidelines is required (SPPR7). The provision of resident amenities should be clearly set out. Careful consideration of apartment unit amenities should be considered, unit B-1-2 Studio raises some concerns with regards to deep plan and lack of daylight/sunlight. The dual aspect ratio depends upon light and cross ventilation from a central atrium. Floor to ceiling heights should be at least 2.7 metres. The provision of private amenity space requires greater attention.
- **Open Space** – the quantum of open space is noted; however, its usability is queried.
- **Design and Massing** – given the receiving environment, the planning authority consider that the proposed development is out of scale with surrounding development.
- **Residential amenity** – there would be several negative impacts to the residential amenity currently enjoyed by neighbouring apartments.
- **Transportation planning** – some technical issues are raised, the quantum of car parking is questioned, more spaces are sought by the Transportation Department.
- **Drainage** – issues are raised in relation to a combined sewer that crosses the site, further consultation is advised.
- **Part V-** Proposals are noted.

- **Conclusion** – The planning authority accept that a build to rent scheme at this location would be acceptable, however, the removal of Dun Leary House cannot be supported. In addition, given the prominent position of the site and its location close to historic buildings in the vicinity, the scale, bulk and height of the proposal does not accord with development policies and objectives. A summary of the issues that ABP may wish to consider are provided in the conclusion and a list of matters that would require further consideration are set out.

Submission from Irish Water (IW)

6.1.7. A submission was received from Irish Water and is available on file. In summary, the submission states that a connection to the water network should be from an existing 100mm ID uPVC main adjacent to the site, however fire flow requirements should be assessed by the applicant and adequate fire storage capacity should be provided. A new connection to the existing waste water network is feasible without upgrade. An existing 1200mm ID combined sewer passes through the proposed site, the exact location should be surveyed. A diversion of the sewer may be required subject to layout proposals and separation distances. The applicant will be required to engage with IW in respect of a diversion agreement if diversion is required.

7.0 Consultation Meeting

7.1.1. A section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 19 December 2019, commencing at 11.30 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.

7.1.2. 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. Residential Amenity
2. Car Parking
3. Public Realm
4. Drainage and Flood Risk

5. Any other matters

- 7.1.3. In relation to Residential Amenity, ABP representatives sought further elaboration/discussion on the provision of shared residential amenity facilities throughout the scheme, in particular intended use and management of shared rooms on each floor. The purpose and benefit of the central atrium, courtyard and roof top terraces were clarified. Access and management of these spaces was explored. Meeting standards in relation to individual apartments was noted, but more detailed descriptions within some one bed apartments should be clarified. The planning authority highlighted their issues in relation to landscaping and these were noted by the applicant
- 7.1.4. In relation to Car Parking, ABP representatives sought further elaboration/discussion on the quantum and design of car parking spaces, in the context of the locational attributes of the site and the B2R nature of the proposal. Management of car parking spaces was queried and the production of a detailed MMP was suggested. The planning authority suggested a parking ratio of 0.5 per apartment and noted at grade parking refinements.
- 7.1.5. In relation to Public Realm, ABP representatives sought further elaboration/discussion on the level of agreement between the applicant and the planning authority in relation to the actual design of the road junctions and the materials and design of pedestrian facilities and the public realm in general. Broad agreement between the applicant and the planning authority on public realm improvements were voiced and a letter of consent from the planning authority would be sought prior to the lodgement of an application.
- 7.1.6. In relation to Drainage and Flood Risk, ABP representatives sought further elaboration/discussion on the detailed design of the proposed combined sewer diversion and the technical requirements required by the planning authority and IW. The FRA should take account of tidal flooding and the planning authority highlighted that the construction works to drainage infrastructure should also form part of the FRA and construction management plan.
- 7.1.7. In relation to any other matters, ABP representatives reminded the applicant to engage further, as necessary, with regard to the any technical requirements that can be agreed before an application is made. The issue of architectural conservation was

raised in addition to the scale, height and massing of the proposed development and the receiving character of the area. The applicant was reminded to include a response to the issues raised by the planning authority in relation to the concerns raised by the planning authority. The intended submission by the applicant of a material contravention statement in relation to SLO153 was noted.

- 7.1.8. Both the prospective applicant and the planning authority were given an opportunity to comment and respond to the issues raised by the representatives of ABP. Those comments and responses are recorded in the 'Record of Meeting 305866' 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.

8.0 Conclusion and Recommendation

- 8.1.1. Based on the entirety of the information before me, it would appear that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 8.1.2. I have examined all of the information and submissions before me including the documentation submitted by the prospective applicant, the submissions of the planning authority, submissions received from statutory consultees referred to under Section 6(10) of the Act and the discussions which took place at the tripartite meeting. I have had regard to both national policy, via the s.28 Ministerial Guidelines, and local policy, via the statutory plan for the area.
- 8.1.3. 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.
- 8.1.4. 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

- 9.1.1. An Bord Pleanála refers to your request pursuant to section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Section 6(7)(a) of the Act provides that the Board shall form an opinion as to whether the documents submitted with the consultation request (i) constitute a reasonable basis for an application under section 4 of the Act, or (ii) require further consideration and amendment in order to constitute a reasonable basis for an application under section 4.
- 9.1.2. Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, and submissions received from statutory consultees referred to under Section 6(10) of the Act, An Bord Pleanála is of the opinion that the documentation submitted would constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.
- 9.1.3. 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. Notwithstanding that the proposal constitutes a reasonable basis for an application, the prospective applicant should satisfy themselves that the proposal to remove Dunleary House (Yellow Brick House) and associated boundary provides the optimal urban design and architectural solution for this site and in this regard, the proposed development shall be accompanied by an architectural report and accompanying drawings that outline the design rationale for the proposed building form in the context of the site topography and the architectural/landscape sensitivity of the wider area having regard to inter alia, National policy and Local planning objectives concerning building height, the

site's contextual and locational attributes. The accompanying architectural report should outline the design rationale for the proposed building height, scale and massing in light of the publication of 'Urban Development and Building Height' 2018 and specifically with reference to Chapter 3 Building Height and the Development Management process, of the said guidelines. The applicant should satisfactorily demonstrate that the proposed development complies with the criteria as set out in section 3 of the guidelines in terms of the wider neighbourhood and the street, and responds positively to the specific characteristics of the site.

In this regard an appropriate statement in relation to section 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016, that outlines consistency with the relevant development plan and that specifically addresses any matter that maybe considered to materially contravene the said plan, if applicable.

2. A Daylight/Sunlight analysis, showing an acceptable level of residential amenity for future occupiers and neighbours of the proposed development, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties. Specific regard should be had to ground floor apartments at sensitive locations and existing adjacent properties. Drawings that detail dual aspect ratios should be clearly laid out and accompanied by a detailed design rationale report.
3. A mobility management strategy that shall be sufficient to justify the amount of parking proposed for cars and bicycles.
4. Additional drainage details for the site having regard to the requirements of the Drainage Planning as indicated in their report and contained in section 1.3 of the Planning Authority's Opinion. Any surface water management proposals, combined sewer diversion and other technical aspects of the proposal should be considered in tandem with any Flood Risk Assessment, which should in turn accord with the requirements of 'The Planning System and Flood Risk Management' (including associated 'Technical Appendices'), specifically with reference to possible tidal flooding factors.

5. A site layout plan showing which, if any, areas are to be taken in charge by the planning authority, and a detailed public realm strategy that outlines the provision of durable and acceptable materials and finishes that comply with the technical requirements of the planning authority. The applicant shall clarify how the works in the public realm will be carried out and by whom.
6. A detailed Construction Traffic Management Plan should be prepared with specific reference to any proposed sewer diversion works in the public road.
7. Construction and Demolition Waste Management Plan.
8. A proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains in use as Build to Rent accommodation. There shall be a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period (Your attention is drawn to the provisions of Specific Planning Policy Requirement 7 of the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2018).

Also, 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. National Transport Authority
4. The railway operator - Iarnród Éireann
5. Commission for Railway Regulation

PLEASE NOTE:

Under section 6(9) of the Planning and Development (Housing) and Residential Tenancies Act 2016, neither the holding of a consultation under section 6, nor the forming of an opinion under that section, shall prejudice the performance by the Board, or the planning authority or authorities in whose area the proposed strategic housing development would be situated, of any other of their respective functions under the Planning and Development Acts 2000 to 2016 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

Stephen Rhys Thomas
Senior Planning Inspector

07 January 2020