



An  
Bord  
Pleanála

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

### **Inspector's Report on Recommended Opinion ABP-306219-19**

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<b>Strategic Housing Development</b>	999 apartments, 2 creches and 2 shops
<b>Location</b>	Fosterstown, Swords, Co. Dublin
<b>Planning Authority</b>	Fingal County Council
<b>Prospective Applicant</b>	MKN Property Ground
<b>Date of Consultation Meeting</b>	11 <sup>th</sup> February 2020
<b>Date of Site Inspection</b>	10 <sup>th</sup> February 2020
<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 within the built up area of Swords a few hundred metres south of the town centre . It has a stated area of 9.2ha, of which 6.1ha is land owned by the prospective applicant and another 3.1ha is part of the public road network. The former part of the site is greenfield, consisting of fields under pasture bounded by hedgerows. Its southern boundary is along a stream called Gaybrook. Its western boundary is along Forest Road. That road serves an extensive residential area in the south-west of Swords. It lacks frontage development and has been only partially upgraded to reflect its role as a suburban street. The land to the west of the site is occupied by low density housing. The adjoining land to the north, south and east is greenfield. The northern boundary is within 100m of detached houses and a supermarket. The eastern site boundary is within 100m of the main Dublin Road near the junction at Pinnock Hill with the by-pass road along the R132 and the road serving the Airside business park. The application site includes the Forest Road along the western side of the site. It also includes the roundabout at Pinnock Hill and stretches of each approach road to it, along with a strip between the roundabout and the main part of the site.

## 3.0 Proposed Strategic Housing Development

3.1. It is proposed to build 999 apartments. The housing mix would be as follows –

	1 bed	2 bed	3 bed	Total
Apartments	319	654	26	999

3.2. The proposed development includes the replacement of the Pinnock Hill roundabout with a signalised junction, the upgrade of the Forest Road along the west of the site boundary and a new link road between them. The proposed housing would be served by two junctions along the new link road.

3.3. The apartments would be provided in 11 buildings between 4 and 15 storeys high, generally laid out in 5 rows whose long axes would run north-south with additional frontage facing north to the new street there. The tallest block would be in the middle of the southern edge of the scheme. The blocks along the Forest Road would be 4 to 6 storeys high. The development would also include 2 creches and 2 “commercial units” with floor areas of 262m<sup>2</sup> and 172m<sup>2</sup> at the northern end of the scheme. Various shared amenity rooms would be provided in the blocks with a combined floor area of 1,066m<sup>2</sup>. 638 car parking spaces would be provided, 451 at a ‘semi-basement’ level and the 187 at surface level. 799 bicycle spaces are proposed in the basements with another 262 ground level spaces. A plot of 1.5ha reserved for a school is also within the redline boundary. A linear open space would be provided between the two of the rows of apartment blocks, with another along the stream at the south of the site. The submitted documents outline 4 phases for the proposed development.

## 4.0 Planning History

## 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 11 is there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing

cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth. Objective 13 is that planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes. Objective 27 is to ensure the integration of safe and convenient alternatives to the car into the design of communities. Objective 33 is to 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')2009
- Design Manual for Urban Roads and Streets'2013
- Guidelines for Planning Authorities on Urban Development and Building Heights, 2018. Section 2.11 states that locations with the potential for comprehensive urban development should be identified and provided with appropriate planning frameworks to deal with movement, public realm, design and other issues best addressed at neighbourhood level.
- Sustainable Urban Housing: Design Standards for New Apartments (2018),
- Childcare Facilities – Guidelines for Planning Authorities

## 5.2. Local Policy

- 5.2.1. The site is zoned for residential development under the RA objective of the Fingal County Development Plan 2017-2023. Objective SWORDS 6 of the plan refers to the provision of a new road to from the Dublin Road to the Forrest Road. Objective SWORDS 27 refers to a requirement for a masterplan for development at Fosterstown. Such a masterplan was adopted in May 2019. Its provides a layout for development on the lands including the current site with a new road linking an upgraded junction at Pinnock Hill to an upgraded Forest Road, as well as a linear open space along the stream and a site for a primary school in the south-western part of the site. The masterplan specifies that net densities should be between 105-155 dph and there should be a mix of building types and heights, with 2 and 3 storey houses along the Forest Road and beside existing houses at Borimhe Willows and

apartment buildings up to 9 storeys high elsewhere. A phasing scheme is set out which states that development is contingent upon the provision of infrastructure including the link road, junction upgrade and school site. It specifies that 24% of the area could be developed for 260 homes before the Metro is provided.

## **6.0 Forming of the Opinion**

### **6.1. Documentation Submitted**

The prospective applicant submitted extensive documentation including drawings of the proposed development and –

- A Planning Report and Statement of Consistency
- A Statement on Material Contravention of the Development Plan
- An Architectural Design Statement
- An Environmental Report
- A Landscape Design Statement
- A Visual Impact Assessment
- A Flood Risk Assessment
- Housing Quality Assessment
- An Engineering Assessment Report
- An Appropriate Assessment Screening Report and a Natura Impact Statement
- A DMURS Design Statement
- A Traffic and Transport Assessment
- A Sunlight and Daylight Analysis
- Photomontages
- A Community Audit

### **6.2. Statement of consistency**

The proposed development would provide housing at considerable density on a site within the built up area of Swords and close to existing social and commercial

facilities, places of employment and the bus corridor along the Dublin Road. It is also close to the planned Metro station at Fosterstown. It would therefore be in keeping with objectives 3a, 4, 11 and 13 of the National Planning Framework. The provision of housing would be in keeping with government policy set out in Rebuilding Ireland. The proximity of the town centre and existing bus corridor means that the site is in an accessible location, even without considering the planned Metro, and so is suitable for apartment development under the policy at section 2.4 of the 2018 guidelines on apartment design. The mix of apartments would comply with SPPR 1 of those guidelines, and their size with SPPR 3. Only 77 3-person two-bedroom apartments are proposed, less than the guideline of 10%. 43% of apartments would be dual aspect which is acceptable for an accessible urban area under SPPR4. The ceiling heights and units per core follow SPPRs 5 and 7 respectively. 8,747m<sup>2</sup> of communal open space would be provided, which meets the standard in the appendix to the guidelines, as does the provision of private open space in the form of balconies or terraces.

The location of the site near the town centre on a public transport corridor justifies the proposed height under the 2018 guidelines on building height, notwithstanding the reference in the development plan to 2-3 storey houses along the Forest Road. There is a suitable variation in heights to avoid monolithic frontages and the proposed 15 storey tower on the southern edge of the scheme would play an important role in this regard. The scheme would also provide proper street frontage onto the new link road. The submitted daylight analysis shows that the development would not affect neighbouring houses and proposed open spaces would meet the standards in the BRE guidelines. Mitigation measures are proposed where apartments would not meet the standards.

The net density would be 177 dph, based on the site area in the prospective applicant's ownership less the school plot. This would be in keeping with the 2009 guidelines on urban residential development. The criteria set out in the accompanying design manual would be met. A statement of compliance with DMURS from the prospective applicant's engineers is submitted. Childcare facilities would be provided in accordance with the guidelines on that topic. The transport improvements proposed under the BusConnects and Metrolink projects would support the proposed development. A flood risk assessment submitted in

accordance with the guidelines on that topic concludes that the site is not a risk of flooding. A draft AA screening report and NIS show that the development would not adversely affect the integrity of any Natura 2000 site. An environment report is submitted which would form the basis for an EIAR to be submitted with the application.

The proposed development would be in keeping with the RA zoning of the site under the development plan, as well as its core strategy which identified Swords as a metropolitan consolidation town. It would comply with various objectives regarding housing density, mix and design. With regard to objective DMS28, the separation distance between apartments is generally 23m falling to 18m in one location. The distance to neighbouring houses is 30m. The development would provide more than 10% of the site as public open space, but not the 3.8ha that would be required to meet objective DMS57. Car parking would be provided at a rate of 0.6 per apartment and bike storage at 0.8, which is appropriate to such an accessible site even though it is less than the standard at tables 12.8 and 12.9 of the development plan. 100 apartments would be provided as social housing under Part V.

The proposed development would meet the objectives of the Fosterstown Masterplan by upgrading the Pinnock Hill junction and the Forest Road and providing a link between them, along the pedestrian and cycle routes along the riparian corridor. It would also provide the green infrastructure sought by the masterplan. The height, density and housing mix would depart from the provisions of the masterplan. This is justified by the reference to national guidelines on building height and apartment design and the location of the site near the town centre and a public transport corridor. The proposal would also depart from the phasing provision that no more than 25% of the envisaged quantum of development would be built before the Metro. This is justified by the location of the site within the built up area of Swords and close to its facilities and employment opportunities. A school site is reserved in accordance with the masterplan.

A statement justifying a proposed material contravention of the provisions of the development plan was submitted by the prospective applicant. It states that the proposed development would materially contravene the provision of the development plan which states that the masterplan for Fosterstown would restrict development that adjoins existing housing to 2-3 storeys. This is expressed in the subsequent

masterplan as restrict of development along the Forest Road to 2-3 storeys. The proposed development would have buildings between 4 and 6 storeys high along the Forest Road. This is justified by the need to provide development at a sufficient density at this location near the town centre and public transport corridor with a proper standard of urban design along a street in line with the objectives of the National Planning Framework and the guidelines on building height issued in 2018.

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

The council stated that the proposed mainly residential development would be in keeping with the zoning of the site. The area provides a significant opportunity for residential development of a suitable height and density. However it needs to be approached in a co-ordinated manner on the basis of a masterplan in accordance with the provisions of the development plan and the advice at section 2.11 of the 2018 guidelines on building height. The council have issued a masterplan that is based on a vision of a mixed residential community at Fosterstown with a variety of housing and building forms. The current proposal is not in keeping with the masterplan for the area, as the prospective applicant was informed during meetings under s247 of the planning act. The phasing scheme in section 8 of the masterplan restricts the pre-metrolink quantum of development to 24% of the capacity of the area as a whole, not that of the current site. The submitted plans do not provide enough variation in building heights and designs, and it has not been demonstrated that the greater proposed heights would be suitable for this area. The projecting balconies would not provide adequate screening. There is insufficient permeability in the layout particularly to the zoned land to the east. The Parks Division require more details on trees and hedges and about play areas. A 10-15m buffer zone should be provided along the stream. 1,025 car parking and 2,204 bike spaces are required. The design of the Fosterstown Link Road and Pinnock Hill junction has not yet been finalised. The site is greenfield and 50% of apartments should have dual aspect and separation distances of 22m should be provided. The second creche and school site should be provided in the first phase of development. Additional drainage details are required. More SUDS and green infrastructure should be provided rather than attenuation tanks. The submitted NIS is noted. The council considered that



significant revisions would be required to the submitted documents before a grant of permission was considered.

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

**Irish Water** has reported that it has issued a confirmation of feasibility for 1,200 home. However this is subject to works to overcome the significant foul drainage deficiencies in the area which have not yet been determined.

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

A section 5 consultation meeting took place at the offices of the board at 1430 on Tuesday, 11<sup>th</sup> February 2020 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. Access and layout, including issues regarding BusConnects and Metrolink
- ii. Compliance with development plan and masterplan, including issues relating to phasing, density, housing mix and height
- iii. Drainage and water supply
- iv. Appropriate Assessment issues
- v. Any other issues

Under item i) the board's representatives noted that the proposed development included large scale works to the road network in addition to the proposed housing. As the proposed road works would not have a floor area, their inclusion would not place the proposal outside the definition of "strategic housing development" in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. However it would raise practical issues for the assessment of a project with a large non-residential element within the statutory period for SHD applications. The council stated that the proposed replacement of the Pinnock Hill roundabout was its project and that it had advised the prospective applicant that it should be proposed and assessed in conjunction with the housing at Fosterstown. The junction upgrade

was a short term project that could proceed before works to the transport infrastructure for the wider area. The council referred to its ongoing transport study for south Fingal and the airport. It is still working on the design of the link road. The desirability of an integrated approach to the development of housing and infrastructure was accepted by the parties and there was discussion of the SHD procedures that might facilitate this, including the convening of an oral hearing or a breach of the statutory period for the consideration of an application. The board's representative stated that any significant works in the area, especially to public roads, would have to avoid prejudice to the Metrolink and BusConnect projects and that consultation and advice from TII and the NTA would be important in this regard.

In relation to item ii) the council stated that its masterplan is based on a comprehensive analysis of the infrastructure required in the area and its phasing provisions reflect this. Barryspark and Cromcastle will accommodate significant commercial development in addition to the residential development at Fosterstown. 240-260 homes are envisaged in phase 1. The council stated that its approach is in line with the advice at section 2.11 of the national guidelines on building height regarding a masterplan approach for the development of larger areas. The plan was adopted by the elected members of the council. It does not provide for the heights and density now proposed. The prospective applicant stated that the masterplan is based on a development plan whose policies on height pre-date the guidelines and that a strong justification for the proposed heights has been submitted. The prospective applicant is in discussion with the owners of land to the south and will seek to co-ordinate development on both sites. The council and the board's representatives also referred to the need to provide sufficient permeability with future development on the adjoining land to the east. The council stated that detailed analysis was required in respect of landscaping and the existing trees on the site. The board's representatives queried whether the retention of vestigial vegetation along streets would be worthwhile. The prospective applicant referred the submitted landscaping documents, and stated that accessible open space would be provided along the stream at the south of the site. The council stated that landscaping and SUDS proposals need to be consistent. The parties also discussed the need for adequate separation distances between buildings and clear information regarding the level of daylight that would be available to homes and open spaces. The

prospective applicant stated that the enclosure of balconies on higher levels can be considered, but design issues are also relevant to the treatment of the balconies. The board's representative stated that the proposed streets, including the upgraded Forest Road, would have to conform with the standards set out in DMURS and the National Cycle Manual. In this regard revisions may require to provide additional junctions on the Forest Road and provide priority for cyclists over traffic on minor roads at junctions.

In relation to item iii), the prospective applicant stated that it was in consultation with Irish Water in relation to the issues on its networks. The council stated that it believed that the foul sewer along the R132 had capacity to cater for more development. The board's representatives stated that the issues raised in Irish Water's submission would need to be addressed before a grant of permission was considered. The council stated that some additional information was required in relation to surface water drainage, and expressed a preference for SUDS measures over attenuation tanks. The prospective applicant states that had experience of resistance to surface water detention in open space from residents in other schemes. The board's representatives advised further consultation between the parties on the matter.

In relation to item iv), the board's representatives advised that appropriate assessment screening reports and any NIS that may be submitted would have to be clear and precise in their application of the relevant tests set out for screening and assessment set out in legislation and case law, and relate them to objective information regarding the proposed development and its potential or otherwise for any impact on the conservation objectives of Natura 2000 sites. They would also have to adequately address the road works for which permission would be sought as well as the housing. The submission of irrelevant or repetitive information or that relating to administrative issues should be avoided.

In relation to item v) the council stated that the open space needed to provide facilities suitable for recreation by children of all ages. Reference was also made to the need to be consulted with the IAA given the proximity of the airport.

## 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 of the documentation as it relates to the requirements of Article 6 of the Habitats Directive and Natura 2000 sites. The documentation should include an appropriate assessment screening report and, if the applicant considers that the proposed development is likely to have a significant effect on any Natura 2000 site, a Natura Impact Statement. The documentation should include the specific information regarding the application site, its circumstances, the proposed development and the Natura 2000 network that is necessary to apply the tests for screening and/or appropriate assessment that are set out in legislation and case law. The information should address the proposed works to roads as well as the proposed housing. Irrelevant or repetitive information or that of an administrative nature only should not be included. The information should be set out clearly and precisely and should provide an objective basis for any stated conclusions.
2. Further consideration of the documentation as it relates to compliance with the applicable standards set out in DMURS and the National Cycle Manual.

Assertions of compliance with general principles are insufficient in this regard. The documentation should demonstrate compliance with specific requirements, including -

- The requirement for permeable street networks under section 3 of DMURS, including the advice against cul-de-sacs in section 3.3.1 and on block sizes in section 3.3.2. The treatment of the Forest Road and the limited number of junctions upon it should be revisited in this regard, as should the potential for permeability with future development on the neighbouring land to the east. The advice against large roundabouts in urban areas stated at section 4.4.3 should be respected.
- The advice against shared pedestrian and cycle facilities at section 1.9.3 of the National Cycle Manual; the specifications for cycle tracks and lanes at section 4.3; the advice regarding the treatment of cyclists at major junctions throughout section 4; the requirement for priority of cycle tracks/lanes over minor roads at priority junctions set out in section 4.9; and the construction details for cycle tracks at section 5.6.

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. A transport impact assessment report that describes the likely impact of the proposed development on the surrounding area and its transport infrastructure. In particular the report should address the potential impact on the Metrolink and BusConnects projects and the Cycle Network Plan for the Greater Dublin Area. The report should also give an account of consultations with the NTA and TII.
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.

3. A report demonstrating compliance with the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the minister in December 2018 in accordance with SPPR3 of those guidelines
4. An analysis of the daylight and sunlight that would be available to dwellings and open spaces with reference to the BRE guidance on the subject.
5. A phasing scheme for the development which would indicate how open space and access for the proposed housing would be provided in a timely and orderly manner.
6. A Site Specific Flood Risk Assessment Report. The prospective applicant is advised to consult with the relevant technical section of the planning authority prior to the completion of this report which should describe this consultation and clarify if there are any outstanding matters on which agreement has not been reached with regard to surface water drainage.
7. Details of the finishes and materials on the proposed buildings, and of proposed boundary and surface treatments and landscaping throughout the development.
8. A draft construction management plan
9. A draft waste management plan.

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. Irish Aviation Authority
5. DAA dac
6. Fingal County Childcare Committee
7. The Minister for Culture, Heritage and the Gaeltacht,

8. The Heritage Council
9. An Taisce — the National Trust for Ireland

**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,  
26<sup>th</sup> February 2020