



An
Bord
Pleanála

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

**Inspector's Report on
Recommended Opinion
ABP-306250-19**

Strategic Housing Development

Location	Lands at Former Swiss Cottage, Swords Road and Schoolhouse Lane, Santry, Dublin 9
Planning Authority	Dublin City Council
Prospective Applicant	Cinamol Ltd
Date of Consultation Meeting	February 12 th 2020
Date of Site Inspection	February 05 th 2020
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 development has a stated site area of 0.48 hectares, are located along the Swords Road, Santry, Dublin 9. Construction works associated with development permitted under ABP-303358-18 are on-going on site. The lands are bounded by Schoolhouse Lane to the north, Swords Road to the west, commercial and retail development to the south and Magenta Crescent, a two storey residential development to the east.

2.2 Schoolhouse Lane is characterised with two storey residential units and a two storey apartment block with rooflights. Magenta Crescent, a two storey residential estate is located to the south and east of the development site and is accessed by car from the R-132 south of the site. The Swords Road (R-132) is generally characterised by low rise commercial and industrial type units. Santry Demense is located north of the site with the Crown Plaza hotel and other restaurant units located at the entrance of Northwood Avenue. There is an entrance to Santry Park approx. 200m north of the site. The Omni shopping centre is located approx. 300m south of the development site.

3.0 Proposed Strategic Housing Development

3.1 The development is outlined as follows:

	Permitted	Proposed
Site Area	0.48 ha	0.48 ha
No. of units	110 build to rent units (reduced from 112 units by condition)	120 build to rent units
Density	229 units/ha	250 units/ha
Building Height	3-6 storeys	3-7 storeys
Other uses	Commercial- 398 m ² Communal Amenity Space- 1261m ²	Commercial- 392m ² Communal Amenity Space-1812 m ²
Mix of residential units	13 x 1 bed (12%) 99 x 2 bed (88%)	14 x 1 bed (12%) 103 x 2 bed (86%) 3 x 3 bed (2%)
Dual Aspect Units	63%	70%
Parking	34 car parking	34 car parking

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)
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (2018)

4.2 Local

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

Zoning:

There are two zoning objectives pertaining to the subject site, as follows:

North-eastern corner of the site is zoned 'Objective Z1' which seeks to 'protect, provide and improve residential amenities'. The remainder of the site is zoned 'Objective Z3' which seeks to 'provide for improved neighbourhood centre facilities'.

Residential uses are permissible under both these zoning objectives.

Chapter 16 deals with Development Standards: Design, Layout, Mix of Uses and Sustainable Design.

Section 16.10 deals with Standards for Residential Accommodation.

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.

It is noted that the City Plan refers to Build-to-let apartments and it provides that this particular managed rental model shall be retained in single ownership for 20 years (minimum) during which period units may not be sold off on a piecemeal basis. Build-to-let schemes for mobile workers should be adaptable for future demographic needs of the city, e.g. by providing for the amalgamation of studios in a change of use scenario.

The site is in Parking Area 3 as set out in Table 16.1, which allow a maximum of 1.5 spaces per residential unit.

5.0 Planning History

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

ABP-303358-19

Permission GRANTED under SHD process for 110 build-to-rent apartments, together with commercial element and ancillary site works

4211/15 (PL29N.247121)

Permission GRANTED in January 2017 for the demolition of the former Swiss Cottage bar and restaurant structures and the construction of a three storey mixed use structures comprising of 1 retail/commercial unit and 1 no. takeaway unit at ground floor level, 1 no. two storey restaurant/café unit a ground and first floor, and 1 no. retail/commercial units at ground and first floor level, office accommodation at first floor and 1 no. licenced retail convenience/discount store including off licence and ancillary services with terrace at second floor. Permission included relocation of

the existing entrance off Swords Road to access the proposed surface level undercroft car park which provides for 80. car parking spaces.

4191/10 (ABP PL29N.239685)

Spilt decision issued in August 2012 for 10 year permission for demolition of public house/restaurant, off licence, house and factory and construction of mixed use development (residential, retail, restaurant, public house, offices, medical/consulting room), new access road, 115 car parking spaces and associated site works. This site incorporated the current development site and also the lands to the north-east of the site along Schoolhouse Lane.

Permission GRANTED by ABP for Block C and D to the rear of the site and REFUSED permission for Block A and B as it considered the proposed design for the development of Block A consisted of over-development of the site, did not give adequate consideration to the quality of open spaces provided on roof terrace and in the central first floor garden which was surrounded by three floors of construction on three sides, provided for poor quality of private open space to the private balconies, many of which had an undesirable aspect facing onto a busy street or unattractive prospect, and provided for poor amenity by the excessive use of deck access. The Board further considered that the façade of Block A, at a very prominent location, did not provide sufficient articulation or visual interest at upper levels and did not provide an attractive visual street rhythm at ground floor level and that Block A contributed to overshadowing of buildings to the north and east.

Site immediately east

3612/17

Permission GRANTED on lands to the immediate east of the application site, on lands forming part of permission File Ref. No. 4211/15 and 4191/10 for demolition of 1 no. vacant commercial warehouse building and the construction of 8 no. two storey, semi-detached, three bed dwellings and associated development.

4215/15

Permission GRANTED for the demolition of existing vacant residential dwelling, shed and vacant commercial building and the construction of 5 no. dwellings consisting of

two semi-detached and three no. terraced dwellings accessed off Schoolhouse Lane.

6.0 **Section 247 Consultation(s) with Planning Authority**

6.1 It is stated that one pre-application consultation took place with the planning authority on 14/11/2019.

7.0 **Submissions Received**

Irish Water

Confirmation of Feasibility issued for this site for 135 no. residential units.

This is stated to be a standard connection requiring no 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 and a fully executed Project Works Services Agreement, Irish Water confirms that subject to a compliant water and wastewater layout and a valid connection agreement being put in place between Irish Water and the developer, the proposed connections to the Irish Water networks 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), photomontages, Statement of Consistency, Material Contravention Statement, Irish Water Pre-Connection Enquiry letter, Part V information, Appropriate Assessment Screen Report, Design Report, Landscape Rationale, Daylight and Sunlight Analysis Results, M & E Energy Report, Traffic and Transport Assessment and Archaeological Monitoring Report.

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 24th January 2020.

8.2.2 The planning authority's 'opinion' included the following matters: proposed development, planning history, pre-planning consultations, planning context, zoning, proposed additional floor, internal layout, impact on neighbouring properties, communal open space, childcare facility, other matters. The following issues require further consideration:

- Concerns in relation to impact of proposed amended development on adjoining residential occupiers to the north at Schoolhouse Court complex and on the central courtyard area, which is the primary outdoor recreation area for the development. Submitted Daylight & Sunlight Analysis indicates that in both instances, significant overshadowing and loss of access to daylight would occur
- Concerns that additional sixth floor adjacent to Schoolhouse Lane would have overbearing impact on Schoolhouse Court complex, which is situated directly north of the application site and in close proximity to the tallest section of the building

- Baseline conditions for windows within a number of adjoining properties, as set out in Daylight & Sunlight Analysis are different from those set out in previous application. Furthermore, noted that updated assessment indicates that the proposed taller building would have a better relationship to a number of adjoining windows in terms of access to daylight and there are other instances where windows within adjoining buildings, which ought not to be affected by the additional floor, are identified as being provided with greater access to daylight than was the case in the previous application. Unclear how the proposed amended building could have better relationship to neighbouring properties, where the building footprint is not affected by the amendments- clarification sought
- Month-by-month assessment of average daylight hours within the central courtyard should be provided within the Daylight and Sunlight Analysis Results document to allow for a full understanding of the year round level of overshadowing of this primary outdoor recreation area for the development
- Appear to be increases in the height of the approved building which are not related to the proposed additional floor, for example four-storey element along Schoolhouse Lane and lift overrun- clarification required
- Proportion of 2 bed, 3 person apartments (17.5%) exceeds the maximum allowable proportion of 10 under the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities
- Further consideration should be given to the relationship of units at the southern corner of the development, where across multiple floors a corner bedroom closely overlooks the balcony of adjoining apartments
- Housing Quality Assessment should be submitted
- Proposal for relocation of roof level plant should be clarified
- Clarification as to whether the close proximity of bicycle store to the southern property boundary will allow for existing mature trees and replacement trees to provided and maintained in this area
- Additional issues raised by internal departments of PA

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 12th day of February 2020, 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.

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

- Proposal in the context of that previously permitted under File No. ABP-303358-18, to include matters raised in PA Opinion
- Any other matters

8.3.3 In relation to Proposal in the context of that previously permitted under File No. ABP-303358-19, to include matters raised in PA Opinion, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- Details regarding alterations proposed; query whether this is a section 146(b) application of otherwise
- Justification of height proposed
- Highlighted concerns in relation to reduction in quality of scheme, from that permitted under ABP-303358-19, in particular with regards to overbearing impacts, daylight/sunlight standards. Increased density not a concern, how it is being achieved raises some issues
- Residential amenity and possible increased impacts on neighbouring residential properties, primarily in terms of daylight/sunlight, overlooking
- Inconsistencies in information submitted with regards daylight/sunlight and baseline data
- Consistency with s.28 guidelines in terms of unit mix
- Clarity regarding number/calculation of dual aspect units required

- Clarification regarding childcare facility

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

- Matters raised in internal report of PA in relation to drainage and transportation divisions
- Submission of all information as was previously required under ABP-303358-19

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 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. Similar baseline data to that used in the previous application (ABP-303358-19) on the site should be utilised. A month-by-month assessment of average daylight hours within the central courtyard should be provided within the Daylight and Sunlight Analysis document to allow for a full understanding of the year round level of overshadowing of the primary outdoor recreation area for the development should be submitted.
2. A housing quality assessment which provides specific information regarding the proposed apartments and which demonstrates compliance with the various requirements of the 2018 Guidelines on Design Standards for New Apartments, including its specific planning policy requirements. This should also include a

schedule of floor areas for all proposed units, clearly setting out the aspect (single, dual, triple) of each unit

3. A report that addresses issues of residential amenity (both existing residents of adjoining development and future occupants), 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
4. Additional details in relation to traffic and transport matters, having regard to the requirements of the Transportation Planning Division (report dated 02/09/19) as indicated in the Planning Authority's Opinion.
5. Waste Management Plan
6. Site Specific Construction Management Plan
7. Additional details in relation to surface water management for the site, having regard to the requirements of the Drainage Division (undated report) 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.
8. Detailed proposals for the management and operation of the proposed development as a 'Build-to-Rent' in accordance with Specific Planning Policy Requirement No. 7 of the 2018 Guidelines on Design Standards for New Apartments, including detailed proposals for the provision and management of support facilities, services and amenities for residents.
9. 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, and which imposes a requirement that the development remains owned and operated by an institutional entity and that similarly no individual units are sold or rented separately. The proposed agreement shall be suitable to form the basis for an

agreement under section 47 of the planning act between the planning authority and the owner of the site and it shall bind the owner and any successors in title for a minimum period of at least 15 years.

Pursuant to article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is informed that the following authorities should be notified in the event of the making of an application arising from this notification in accordance with section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016:

1. Irish Water
2. National Transport Authority
3. Transport Infrastructure Ireland

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

24th February 2020