



An  
Bord  
Pleanála

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

### **Inspector's Report on Recommended Opinion ABP-306686-20**

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<b>Strategic Housing Development</b>	142 no. apartments and all associated site works.
<b>Location</b>	Walled Garden, Gort Mhuire, Dundrum, Dublin 14.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Prospective Applicant</b>	Walled Orchard GP3 Limited.
<b>Date of Consultation Meeting</b>	11 <sup>th</sup> May 2020.
<b>Date of Site Inspection</b>	10 <sup>th</sup> May 2020.
<b>Inspector</b>	Karen Kenny

## Contents

1.0 Introduction .....	3
2.0 Site Location and Description .....	3
3.0 Proposed Strategic Housing Development .....	4
4.0 Planning History.....	5
5.0 Section 247 Consultation(s) with Planning Authority .....	5
6.0 National and Local Planning Policy.....	6
6.1. Project Ireland 2040 – National Planning Framework .....	6
6.2. Section 28 Ministerial Guidelines .....	6
6.3. Dún Laoghaire-Rathdown County Development Plan 2016-2022.....	7
7.0 Forming of the Opinion .....	9
7.1. Documentation Submitted .....	9
7.2. Statement of Consistency .....	10
7.3. Planning Authority Submission.....	11
7.4. Consultation Meeting .....	12
8.0 Conclusion and Recommendation .....	13
9.0 Recommended Opinion .....	14

## 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 located at the eastern end of Wyckham Place, a cul de sac off Wyckham Way (R826), in Dundrum, Dublin 14.
- 2.2. The site (c. 1.09 ha) comprises a disused walled garden with derelict outbuildings that form part of protected structures RPS Ref. No. 1453. The walled garden and outbuildings were formerly part of the curtilage of Gort Mhuire, a protected structure dating from the mid 1800's that is located to the south east of the site. Gort Mhuire is in separate ownership and is currently in use as a nursing home. The stone walls that surround the walled garden and which form the northern, western and eastern boundaries of the site are c. 4 metres high and are relatively intact. The outbuildings are in a poor state of repair and have no roof. There is tree and scrub vegetation within the site and the remnants of a granite basin for a fountain.
- 2.3. The application site is bounded to the east and north by lands associated with St. Tiernan's Community School, to the west by a narrow laneway and 3 No. single storey houses, and to the south by the Gort Mhuire complex.
- 2.4. Wyckham Place presently serves two existing apartment complexes (Wyckham Place and Wyckham Point), 3 No. houses, the application site and the Gort Mhuire complex. A laneway to the west of the site links Wyckham Place to the grounds of St Tiernan's Community School.

2.5. The site is located c. 850m from Dundrum Town Centre and 900m from the Balally Green Line Luas stop. The surrounding area is generally in residential or educational use, with a mix of two storey housing and more recent apartment developments. The closest apartment developments to the west, Wyckham Point and Wyckham Place, range in height from 5 – 8 storeys.

### 3.0 Proposed Strategic Housing Development

3.1. The proposed development consists of the construction of 142 residential apartments within 4 no. apartment blocks of up to 6 storeys in height.

3.2. The proposed development is a modification of an will supersede the development previously granted under SHD Ref. ABP-304590-19. The approved development consists of 116 residential apartments within 4 no. apartment blocks of up to 5 storeys in height. The revised scheme will provide an additional storey on each block.

3.3. The following table sets out a comparison of permitted and proposed developments:

<b>Detail</b>	<b>Permitted</b>	<b>Proposed</b>
<b>No. of Units</b>	116 apartments	142 apartments
<b>Site Area</b>	1.089 ha	1.089 ha
<b>Density</b>	106.5 units / ha	130.4 units / ha
<b>Building Height</b>	5 storeys	6 storeys
<b>Dual Aspect</b>	72%	79.6%
<b>Public Open Space</b>	2,437 sq.m	2,437 sq.m
<b>Communal Open Space</b>	2,736 sq.m	2,736 sq.m
<b>Communal Facilities</b>	174.9 (Concierge; Media Suite; Gym)	174.9 (Concierge; Media Suite; Gym)
<b>Parking</b>	36 car / 311 cycle	25 car / 396 cycle

The walls of the Walled Garden and the outbuildings, which are protected structures, will be retained and refurbished. The outbuildings will house the residents communal facilities.

There will be pedestrian and vehicular access off Wyckham Place to the south along with new pedestrian accesses to the north and east of the site.

## 4.0 Planning History

### 4.1. Subject Site:

**ABP-304590-19:** Permission granted for 116 no. apartments in 4 no. blocks of up to 5 storeys. The subject proposal is a modification of and will supersede this development. It will provide an additional storey on each block (+26 no. units) and includes some modifications to the top floor to provide communal garden areas in place of private terraces.

**PA Ref. D15A/0772 / ABP PL06D.246252:** Permission refused for 108 apartments in two separate 4 storey blocks with basement car parking with 6 no. duplex units within the farm building complex.

**PA Ref. D06A/1588:** Permission granted for 47 no. 2-3 storey mews style dwellings.

### 4.2. Adjoining Lands

**ABP-303041-18:** Permission granted for a new primary school within the grounds of St. Tiernan's Community School.

**ABP-306506-19:** Pre-application consultation, on the Ghort Mhuire lands to the south east, for 730 BTR apartments within 7 no. blocks ranging in height from 5 to 15 storeys on a site of 3.924 ha (3.613 ha net).

## 5.0 Section 247 Consultation(s) with Planning Authority

- 5.1. The applicant's representatives met the PA for a consultation under Section 247 of the Planning and Development Act 2000 (as amended) on 20<sup>th</sup> January 2020. Minutes of the S247 meeting and the applicant's response have been included with

the pre-application submission. The PA raised no objection to the proposed amendments.

## **6.0 National and Local Planning Policy**

### **6.1. Project Ireland 2040 – National Planning Framework**

The National Planning Framework includes a specific Chapter, No. 6, entitled 'People Homes and Communities'. It includes 12 objectives, including the following:

- Objective 27 which seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
- Objective 33 which seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- Objective 35 which seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

### **6.2. Section 28 Ministerial Guidelines**

- Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submission 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').
- Design Manual for Urban Roads and Streets.
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018).

- Urban Development and Building Heights – Guidelines for Planning Authorities, (2018).
- Childcare Facilities – Guidelines for Planning Authorities.
- Architectural Heritage Protection Guidelines for Planning Authorities.

### 6.3. Dún Laoghaire-Rathdown County Development Plan 2016-2022

The site is zoned Objective A with the objective “to protect and or improve residential amenity”.

The ‘Gort Mhuire Centre’ (RPS No. 1453) is listed in the Record of Protected Structures in Appendix 4 of the Plan and is described as ‘water gardens, garden walls and farm building complex, house, ornamental ironwork, conservatory and water tower’. The description refers to the overall Gort Mhuire complex.

Dundrum is designated a Major Centre in the Metropolitan Area in the Core Strategy Figure 1.1. The site is included in Figure 1.3 as part of the 410 ha of serviced land which are to yield 18,000 residential units. It is further noted that “In addition to the major parcels of zoned development land detailed above, the ongoing incremental infill and densification of the existing urban area will generate, over time and on a cumulative basis, relatively significant house numbers”. It is stated that a new Local Area Plan is to be prepared for Dundrum during the life of the County Plan. The site is located a short distance outside the indicative map for the Local Area Plan.

Chapter 2 outlines that the Council is required to deliver c.30,800 units over the period 2014 – 2022. It is stated that the Council in seeking to secure this objective will focus on three strands, namely: increasing the supply of housing; ensuring an appropriate mix, type and range of housing; and, promoting the development of balanced sustainable communities.

Housing policies set out in section 2.1.3 include policy RES3: Residential Density, which promotes higher residential densities in the interests of promoting more sustainable development whilst ensuring a balance between this and ensuring the reasonable protection of residential amenities and established character of areas; RES4: Existing Housing Stock and Densification, which encourages the densification

of existing housing stock to retain population levels, and RES7: Overall Housing Mix, which encourages the provision of a wide variety of housing and apartment types.

Other policies which relate to sustainable land use and travel include ST2: Integration of Land Use and Transportation Policies, ST19: Travel Demand Management, ST23: Car Clubs and ST27: Traffic & Transport Assessment and Road Safety Audits.

Policy AR1 relates to Protected Structures and Part (iv) is to “Ensure that new and adapted uses are compatible with the character and special interest of the Protected Structure.”

Section 4.2 considers Open Space and Recreation including Policy OSR5: Public Open Space Standards.

Section 7.1.3 refers to Community Facilities including Policy SIC11: Childcare Facilities.

Chapter 8 refers to Principles of Development and contains the urban design policies and principles for development including public realm design, building heights strategy, and car and cycle parking. Policy UD2 requires Design Statements for all medium to large developments, and UD6 refers to Building Height Strategy.

Appendix 9 details the Building Height Strategy. Section 4.8 relates to ‘residual areas’ and states that a maximum of 3-4 storeys may be permitted in appropriate locations - for example on prominent corner sites, on large redevelopment sites or adjacent to key public transport nodes - providing they have no detrimental effect on existing character and residential amenity. Furthermore, it states that there will be situations where a minor modification up or down in height by up to two floors could be considered and these factors are known as ‘Upward or Downward Modifiers’.

Upward Modifiers are detailed in section 4.8.1. It is stated that Upward Modifiers may apply where: the development would create urban design benefits; would provide major planning gain; would have a civic, social or cultural importance; the built environment or topography would permit higher development without damaging appearance or character of an area; would contribute to the promotion of higher densities in areas with exceptional public transport accessibility; and, the size of the



site of e.g. 0.5 ha could set its own context. To demonstrate that additional height is justified, it will be necessary for a development to meet more than one 'Upward Modifier' criteria.

## **7.0 Forming of the Opinion**

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 submission and the discussions which took place during the tripartite consultation meeting. I shall provide a brief detail on each of these elements hereunder.

### **7.1. Documentation Submitted**

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, a Completed Application Form, Cover Letter, Letters of Consent, Statement of Consistency, EIA Screening Report, Creche Assessment, Planning Report, Minutes of Section 247 Meeting and Applicants Response, Department of Education Correspondence, Walled Orchard GP3 Limited Right of Way Letter, Go Car Letter, Part V Pack, Architectural Drawings and Design Statement, Landscape and Visual Appraisal, Pre-Construction Bat, Fauna and Mammal Survey, Engineering Drawings, Civil Infrastructure Report, Construction Management Plan, Mobility Management Plan, Structural Survey Report, Traffic Impact Assessment, Conservation Report, Daylight Sunlight Report, Energy & Sustainability Report, Electrical Site Services & Public Lighting Layout Site Plan, Electrical Site Services & Public Lighting Layout Plan, Engineering Details, Preliminary Fire Safety and Access & Use Strategy, Estate and Common Area Strategy Report, Building Lifecycle Report, Wind Desktop Study, Arborist Pack, Photomontages, DLR Vacant Site Notice, Survey Report and Management Plan re: Japanese Knotweed and Irish Water Design Submission and Pre-Connection Enquiry.

## 7.2. Statement of Consistency

Section 5(5)(b) of the Act of 2016 requires the submission of a statement that, in the prospective applicant's opinion, the proposal is consistent with both the relevant objectives of the development plan or local area plan concerned, and the relevant guidelines issued by the Minister under section 28 of the Act of 2000. These statements have been submitted, as required. The applicant's case in relation to the proposed development is summarised as follows:

- Consistent with NPF and RSES policy on consolidation and building height.
- Consistent with Pillar 3 of the Rebuilding Ireland Action Plan for Housing and Homelessness.
- In accordance with Urban Development and Building Height Guidelines. Appropriate site for building of up to 6 storeys.
- Complies with criteria in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual – A Best Practice Guide.
- Complies with criteria for residential developments set out in the Quality Housing for Sustainable Communities: Best Practice Guidelines for Sustainable Communities 2007.
- Complies with standards in the Sustainable Urban Housing: Design Standards for New Apartments, 2018. Reduced car parking in accordance with the Guidelines.
- Complies with the Design Manual for Urban Roads and Streets.
- In terms of childcare guidelines, low demand for childcare and existing facilities in the area.
- Reduced car parking and proximity to Luas will ensure modal shift in accordance with Smarter Travel – A Sustainable Transport Future. In Corridor F of the Transport Strategy for the Greater Dublin Area 2016-2035. There are multiple upgrades proposed in the area.

- In accordance with guidance in the Architectural Heritage Protection Guidelines for Planning Authorities and Development Plan policies in relation to the protection of protected structures.
- In terms of the development plan the site is zoned for residential development and infill development is supported. The design complies with residential policies including RES 3, RES 7, RES 8, RES 9, RES 14 and UD 1. The building height guidance allows for 'upward modifiers', subject to certain criteria. The site accords with criteria (upward modifiers) for buildings of up to 6 storeys in the building height strategy in appendix 9. Open space provision exceeds Development Plan requirements. The car parking requirements in the development plan have been superseded by the Sustainable Urban Housing Design Guidelines for New Apartments 2018. Secure cycle parking is provided.

### **7.3. Planning Authority Submission**

A submission was received by An Bord Pleanála from Dun Laoghaire Rathdown County Council. The 'opinion' of the planning authority included, inter alia, the following:

- Density is considered acceptable in context of national policy and guidelines and development plan policy.
- 6 storey building height is considered to be acceptable in the context of the Building Height Strategy and Building Height Guidelines.
- Separation distance between blocks / windows does not meet the 22 m CDP standard in all instances. However, it is clear from the layouts that there will be minimal overlooking between units. The approach is considered acceptable.
- The provision of communal facilities in a restored stable building will provide a high quality of amenity for future residents.
- No issues with Daylight and Sunlight as a result of the increase in building height.
- Minimal change proposed in terms of overall structure and appearance of the apartment blocks.

- No further impact on Protected Structures. Principle of residential development established under extant permission. Reinstatement of the water features in the centre of the site is welcomed.
- Welcome provision of pedestrian access onto adjoining school lands and collaboration with Department of Education. Application should reference the access points in the development description and include a clear rational and methodology for their implementation.
- Standards in the Apartment Guidelines in relation to individual units are met. Communal open space standards meet the Apartment Guidelines standards and the minimum requirement for 10% under the CDP. The CDP standards per person are not met. Preference should be given to the latest national standards.
- The reduction in car parking within the walled garden will benefit future residents creating a more peaceful garden area for future residents. However, the submission indicates serious concerns in relation to the level of car parking provision overall (0.17 spaces / unit).
- Accept conclusions in relation to childcare demand and provisions in the area.
- Further details / clarification required in relation to treatment of Japanese Knotweed; drainage; and Part V.

#### **7.4. Consultation Meeting**

A Section 5 Consultation meeting took place Remotely Via Microsoft Teams on the 11<sup>th</sup> May 2020, commencing at 9.30. Representatives of the prospective applicant, the planning authority and An Bord Pleanála participated in the meeting. An agenda was issued by An Bord Pleanála prior to the meeting.

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. Car Parking.
2. Issues raised by Irish Water in relation to water and wastewater and by the PA in relation to surface water drainage.

### 3. Any Other Business.

- In relation to Car Parking, An Bord Pleanála sought further elaboration / discussion / consideration in relation to the proposed car parking ratio.
- In relation to Irish Water and Drainage, An Bord Pleanála sought further elaboration / discussion / consideration in relation to the issues raised in the submission received from Irish Water and by the PA's Drainage Section.
- In relation to Any Other Business, An Bord Pleanála sought further elaboration / discussion / consideration in relation to proposed pedestrian connections into the adjoining school site; Part V details; and Conservation matters.

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 306686' 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

- 8.2.1 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.
- 8.2.2 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. Notwithstanding that the proposal constitutes a reasonable basis for an application the prospective applicant is advised to address the following in the documents submitted:
  - (a) Provide evidence that Irish Water has confirmed that it is feasible to provide water and wastewater services and that the relevant networks

have the capacity to service the development. This application should address, *inter alia*, the issues raised in the submission received by An Bord Pleanála from Irish Water.

- (b) Provide further justification for the level of car parking proposed. The justification should include an analysis of car parking demand that is likely to be generated by the proposed development taking account of the locational context and level of connectivity (by all modes) to services and employment generators.
- (c) Provide additional drainage details. The details should address the matters raised in the Report of the Drainage Division of Dun Laoghaire Rathdown County Council, as contained in the PA's submission dated March 2020.

- 2. Details of Part V provision. The details should address the matters raised in the Report of the Housing Division of Dun Laoghaire Rathdown County Council, as contained in the PA's submission dated March 2020.
- 3. Details in relation to the proposed pedestrian connections into the adjoining school site, including methodology for delivery of the connections. The details should have regard to the matters set out in the PA's submission dated March 2020.
- 4. 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 and/or the statement of consistency should set out how the proposed apartments comply with the various requirements of those guidelines and its specific planning policy requirements. A building lifecycle report for the proposed apartments in accordance with section 6.13 of the 2018 guidelines should also be submitted.

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. Minister for Culture, Heritage and the Gaeltacht
5. Heritage Council
6. An Taisce — the National Trust for Ireland
7. Dun Laoghaire Rathdown County Childcare Committee

**PLEASE NOTE:**

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

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Karen Kenny

Senior Planning Inspector

14<sup>th</sup> May 2020