



An
Bord
Pleanála

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

**Inspector's Report on
Recommended Opinion
306772-20**

Strategic Housing Development	70 student apartments (326 bed spaces), 30 no Build to Rent apartments and two ancillary retail units and associated works.
Location	Punches Cross, Limerick, Co. Limerick.
Planning Authority	Limerick City and County Council
Prospective Applicant	Cloncaragh Investments Ltd.
Date of Consultation Meeting	
Date of Site Inspection	13 th March 2020
Inspector	F. Fair

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

- 2.1.1. The subject site, c. 0.77 hectares is located at Punch's Cross, a suburban area on the western side of Limerick, approximately 1.5km from the city centre. The site occupies a corner site between Rosbrien Road and Ballinacurra Road/ O 'Connell Avenue. The site is a brownfield site, vacant and overgrown with a disused commercial building on the site, currently surrounded by hoarding.
- 2.1.2. The Rosbrien Road bounds the north eastern side of the site, the Ballinacurra Road along the west and there are traffic lights at the most northerly point where these two roads meet New Street and O'Connell Avenue. There is a local retail centre to the southwestern corner and a modern Lidl discount food store in the south eastern corner and surrounding area comprises of a mix of commercial and community uses in conjunction with low to medium density residential development.

3.0 Proposed Strategic Housing Development

- 3.1.1. The proposed residential development comprises of 70 student apartments (326 bed spaces) and 30 no. Build to Rent (BTR) apartments.

Block A - 9,028m²

- The building fronts onto the Ballinacurra Road and Rosbrien Road and ranging in height from four storey plus recessed penthouse, cumulating in a six storey feature corner at Punched cross junction.

- 56 no. student apartments (3, 4, 5 & 6 bedroom configurations),
- Communal facilities reception and social areas of 551m² at ground floor,
- Two ancillary retail units (105.6m² & 99m²).

Block B- 5,061m²

- Rear courtyard building 5 storeys plus penthouse to 7 storeys with 12 apartments (5 bedroom configuration),
- 30 BTR apartments.
- 14 no student apartments.

Ancillary

- Courtyard 1,486m²,
- Additional courtyard space (450m²) for the BTR,
- 48 surface bicycle spaces for the student accommodation,
- Vehicle access and egress onto Ballinacurra Road and Rosbrien Road in a one-way arrangement,
- Building set back at the corner of Punches Cross to provide a mini plaza and provision for additional bicycle stands.

3.1.2. A summary of the parameters of the proposed development is listed below:

Parameter	Site Proposal
Application Site	0.77 ha
No. of Units	326 student bed spaces & 30 apartments
Density	Net c. 118 dwellings per hectare (430 bed spaces)
Other Uses	2 retail units (c. 204m ²)
Car Parking	84 spaces (basement)
Bicycle Parking	c. 380 (basement)
Vehicular Access	Rosbrien Road and Ballinacurra Road

Part V	3 units
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3.1.3. The breakdown of residential unit types in the BTR building is as follows:

Unit Type	1 bed	2 bed	3 bed	Total
Apartment	10	18	2	30
% Total	33%	60%	7%	100%

4.0 National and Local Planning Policy

4.1.1. 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)
- ‘Architectural Heritage Protection- Guidelines for Planning Authorities
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)

4.1.2. City Development Plan

- 4.1.3. The Limerick City Development Plan 2010-2016 was adopted in 2010. However, in 2014 it was decided not to start the renewal procedure of the development plan and instead extend the duration of the existing development plan. The current relevant Development Plan is therefore the Limerick City Development Plan 2010-2016 (as extended).
- 4.1.4. The site is zoned 'Local Centre'. This zoning objective also includes the adjoining industrial land to the south enclosed by the three roads: Childer's Road to the south, Rosbrien Road to the northeast, and Ballinacurra Road to the north west. The zoning objective is: ...*"To protect, provide for and/or improve the retail function of local centres and provide a focus for local centres."*⁴⁸ The development plan states in relation to this zoning objective: ...*"Local centres provide for convenience shopping, with anchor units of 400m² or less and a similar amount of associated small units containing convenience, lower order comparison shopping and local services outlets. Limited retail offices will be acceptable in these local centres to serve local needs, subject to restrictions on scale and extent including a cap of 75m² per unit. Residential uses are also acceptable within this zone."*
- 4.1.5. Under the provisions of the zoning matrix the following are relevant to the proposed development:
- Residential use is a permitted use and residential institution is open for consideration.
 - Local shops are a permitted use while neighbourhood shops are open for consideration.
- 4.1.6. During pre-planning consultation with the planning authority, it was decided that the appropriate way of addressing the subject site was to ensure that any retail development would not threaten the continued viability of the Greenpark local shopping centre, a small crescent of single storey shops with surface car parking. It was felt by the planning authority that the zoning objective should be interpreted in relation to the entire land block enclosed by Ballinacurra Road to the west, Rosbrien Road to the north east and Childers Road to the south. As a result, it was concluded

that retail use is adequately represented in the adjoining land to the south of the site which includes not only the Greenpark local shopping centre but also the Lidl food discount store. The planning authority concluded that the 'local centre' zoning objective should be seen in relation to the entire block of land, i.e. with commercial uses concentrated in the other land and residential uses on the application site.

5.0 Planning History

5.1.1. The most relevant history associated with the site is noted as follows:

ABP-304705-19 This application was also for Strategic Housing Development.

A previous application for the same development as currently proposed (70 student apartments (326 bed spaces), 30 no. (Build to Rent apartments and two ancillary retail units and associated works) was refused Planning Permission by An Bord Pleanála in December 2019.

The decision to refuse permission was based on the following reason: ...” *On the basis of the information provided with the application, including the Appropriate Assessment Screening, and in light of the assessment carried out, the Board is not satisfied that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of River Shannon and River Fergus Estuaries Special Protection Area (site code 004077) and the Lower River Shannon Special Area of Conservation (site code 002165), in view of the site’s conservation objectives.”*

PL30.221336 (Reg Ref 06/203)

Permission granted for the demolition of existing buildings and erection of mixed use retail/office development including an anchor retail unit, 5 no. retail units, betting office, takeaway facilities and upper floor office development.

04/770531

Permission granted for a showroom to the front of the premises and retention of minor alterations

5.1.2. Within the vicinity

14/1255 (immediately west of proposed site)

Permission granted for a change of use of part of ground floor from office to HSE's Child and Adolescent Mental Health Service and other works to NEPS building

PL91.247323 (Reg Ref 16/44)

Appeal in relation to a development contribution for special works with a grant of permission for demolition of structure and erection of discount foodstore.

PL91.248965 (Reg Ref 17/60) (immediately SW of proposed site)

Permission refused for the demolition existing buildings and construction of a new monopitched licenced discount food store considering the excessive size on the retail floor space on an area zoned local centre.

18/8014 (Part 8 development at site on Rosbrien Road to SE of proposed development)

Provision of 17 residential units, relocation of existing pitch, provision of new junction onto Rosbrien Road from community centre and ancillary works

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

6.1.1. A formal pre-application meeting under Section 247 of the Act was undertaken with Limerick City and County Council (the Planning Authority) on the 10/12/2019.

This meeting was held following the decision to refuse planning permission. The meeting was attended by the ecologist of the planning authority and a detailed presentation of the proposed Groundwater Management Plan and Natura Impact Statement were given by SLR Consultants. The statement of consistency submitted with the pre-application information submits that the response was positive, and the conclusions advised the applicant as follows:

- To refer to the reports of the planning authority and Bord Pleanala in relation to the previous application. This has been done in this Statement of Consistency.
- To note the suggested conditions of the planning authority. This has been done.
- To note report of the Ecologist. This has been done in the reports by SLR consultants submitted with the planning application. Please refer to these reports.
- To include details of structures to be demolished as part of the proposed development and to include drawings of these structures. Please refer to the

Construction and Demolition Waste Management Plan for details with regard to the proposed demolition of existing structures on the site.

- To confirm the number of bedspaces and to ensure correlation between the drawings and the development description.

7.0 Submissions Received

7.1.1. Irish Water

Irish Water advises that subject to a valid connection agreement being put in place, the proposed connection to the Irish Water network for this development can be facilitated.

Irish Water has issued a conformation of feasibility for this development for 422 no. bedspaces.

IW confirms that the proposed development, is a standard connection, requiring no network or treatment plant upgrades for water or wastewater by either customer or iW.

IW is also satisfied that any requirement to divert an existing 300mm diameter can be dealt with at connection application stage.

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

9.0 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, Pre Application Consultation Application Form, Cover Letter, Planning Report and Statement of Consistency,

Student Demand and Concentration Report, Build to Rent Accommodation Management Plan, Student Management Plan, S247 Pre Application Consultation Report (Minutes from meeting with LCCC for this application and also the previous application are included), Letter of Consent LCCC, Developer's Covenant, Letter of Support from Mary Immaculate College, Architecture Report and Urban Design Statement, Computer Generated Images and Photomontage, Compliance Schedule, Residential Amenity Report, Shadow Cast and Sunlight/Daylight Analysis, Schedule of Architecture Drawings, Masterplan Report, Masterplan Drawings, Part V Confirmation Letter, Landscape Design Strategy, Schedule of Landscape Drawings, Landscape Drawings, Conservation Report, Civil Engineering Report, Greenparks Former PFS Closure Report, Construction and Waste Management Plan, Schedule of Engineering Drawings, Traffic and Transport Assessment, Road Safety Audit, Confirmation of Feasibility Statement from Irish Water, Exterior Lighting, Flood Risk Assessment, AA Screening Report and Natura Impact Statement, Groundwater Management Plan, Water Environment Risk Assessment, Building Lifecycle Report. I have considered all of the documentation submitted by the prospective applicant, relating to this case.

10.0 **Planning Authority Submission**

In compliance with section 6(4)(b) of the 2016 Act the planning authority for the area in which the proposed development is located, Limerick City and 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 2nd April 2020.

The planning authority's 'opinion' included the following matters: copies of record of section 247 consultation, planning history; site location, Development Plan Policy and zoning, Masterplan, Traffic and Transportation Impact, Environment (Noise and waste) Density, Integration with the wider area, Building Height and AA, together with appendices containing reports of internal departments.

The report addresses the following:

- A NIS including mitigation measures to show that the proposed development, either individually or in combination with other plans and projects would not adversely affect the integrity of any European Sites.
- The need for high quality design and layout to realise the potential of strategically important site in a manner that is in accordance with S28 Ministerial Guidance and accords with both the Limerick City Development Plan 2010 – 2016 (as extended) and National Planning Policy and Guidance.
- Similarly, ABP has to be satisfied that the proposed scheme integrates successfully with the immediate urban area and with the wider city achieving adequate connectivity and has due regard to neighbouring developments.
- ABP will also need to ensure that the proposed layout integrates successfully with the existing dwellings / layout and the adjacent ACA of O’Connell Avenue and Rosbrien Road and has due regard to serving the needs of existing occupiers, including the provision of quality areas of POS, recreation and amenity facilities.

I have reviewed and considered all of the documentation submitted by the planning authority relating to this case.

11.0 Consultation Meeting

11.1.1. A Section 5 Consultation meeting took place by way of conference call on the 26th May 2020, commencing at 2.30 pm. 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.

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

1. Response to Previous Refusal Reason
2. Response to Planning Authority Report dated 30th March 2020 and Issues Raised in Appended Reports
3. Treatment of Contamination / Construction Management Plan
4. Noise Assessment
5. Boundary Treatment & External Materials

6. Any Other Matters

11.1.2. In relation to previous refusal (dated December 2019) An Bord Pleanála representatives sought further elaboration / discussion / consideration on the following:

- Clarification that there have been no significant design alterations to the proposed development compared to the previous application.
- Clarification on how the reason to refuse permission in the case of ABP-304705-19 has been overcome.
- Further consideration to the possibility of contamination reaching the Lower River Shannon SAC from the proposed development site, through the medium of ground water.

11.1.3. In relation to issues raised within the planning authority opinion and appended reports, An Bord Pleanála representatives sought further elaboration / discussion / consideration on the following:

- Further justification of the design and layout proposed given the strategically important location of the site at a key entrance to Limerick City.
- Further information and detail required with respect to finishes. Elevational drawings to have cognisance to CGI's and to indicate precise details of proposed finishes and fenestration.
- Further clarification that the NIS references and assesses more site specific cumulative impacts.
- Further clarification and detail with respect to roads issues raised in relation to Punches Cross junction and Rosbrien Road in the Operations and maintenance Report appended to the PA's opinion.
- Further justification and clarity on how the ground water management plan and water risk assessment addresses, excavation, basement construction, end destination of contaminated soil, where it will end up and how it will be treated.
- Clarification of how stormwater discharge will be treated.

11.1.4. In relation to treatment of contamination / construction management plan, An Bord Pleanála sought further elaboration/discussion/consideration of the following:

- Further clarification that the Construction Waste Management Plan (CWMP) and construction Environmental Management Plan (CEMP) adequately deals with the issue of contaminated soil presence, the removal of petrol storage tanks and the possible transfer of contaminants to the SAC
- Further clarification with respect to any issues of asbestos present on the site and proposals for its safe removal.
- Further clarification that all reports submitted including Water Environment Risk Assessment, Ground Water Management Plan and AA screening Report and NIS have cognisance to one another.

11.1.5. In relation to noise assessment An Bord Pleanála sought further elaboration/discussion/consideration of the following:

- Further clarification that detailed analysis of noise issues raised in previous application have been fully considered. In particular, having regard to future noise levels to perspective occupants of the development from Rossbrien Road and to HSE submission on previous application which raised issues in relation to their building being sensitive to noise.
- Further clarification and consideration whether there are any noise sensitive receptors on the site or within the immediate area.
- Details of the management of proposed development, in particular, the student accommodation element and requirement for a student management plan.

11.1.6. An Bord Pleanála sought further elaboration/discussion/consideration of Boundary Treatment and External Materials:

- Analysis and assessment of the proposed development in terms of fine details of boundary treatment.
- Detailed analysis and consideration of a high-quality finish, to be detailed on submitted plans and drawings as per the CGI's. Precise location of stone, brick and render finishes and specific details of balconies.

11.1.7. In relation to any other matters, An Bord Pleanála sought further elaboration/discussion/consideration of the following:

- Specific details and clarification of internal waste management and provision of sufficiently sized receptacles / bins for each apartment facilitating segregated waste.
- Consideration of the proposed development having regard to material contravention of the County Development plan and site zoning.

11.1.8. 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 ABP-306772-20' 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.

Submission from Irish Water

11.1.9. Irish Water has issued a Confirmation of Feasibility which 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 connection(s) to the Irish Water network(s) can be facilitated. IW is also satisfied that any requirement to divert an existing 300mm diameter main can be dealt with at connection application stage.

11.1.10. 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. I have fully considered the responses and comments of the prospective applicant and planning authority in preparing the Recommended Opinion hereunder.

12.0 Conclusion and Recommendation

12.1.1. 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.

- 12.1.2. 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.
- 12.1.3. Having regard to all of 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 for strategic housing development** under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 12.1.4. 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.

13.0 **Recommended Opinion**

- 13.1.1. 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.
- 13.1.2. 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 with the request to enter into consultations constitute a reasonable basis for an application for strategic housing development.**

13.1.3. Furthermore, 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:

1. A response to matters raised within the PA Opinion and Appended City and County Council Department comments submitted to ABP on the 02 April 2020.
2. A robust Water Environment Risk Assessment, Ground Water Management Plan, AA screening report and NIS which support and have regard to one another, and which inter alia, consider the possibility of contamination reaching the Lower River Shannon SAC from the proposed development site, through the medium of ground water.
3. A Construction and Demolition Waste Management Plan (CDWMP) that addresses, inter alia, site investigation, demolition of structures on site, basement construction, end destination and treatment of contaminated waste / soils / oils, cumulative impact and where construction technology proposed has been effectively used in other similar sites.
4. A detailed statement of consistency and planning rationale, clearly outlining how in the prospective applicant's opinion, the proposal is consistent with local planning policies having specific regard to the zoning objective of the site, Zoned 'C1': *'To protect, provide for and/or improve the retail function of local centres and provide a focus for local centres* and its applicability to the development site in question having regard to the mainly residential nature of the proposed scheme.
5. An updated Architectural Design Statement. The statement should include a justification for the proposed development, having regard to, inter alia, urban design considerations, visual impacts, site context, the locational attributes of the area, linkages through the site, pedestrian connections and national and local planning policy. The statement should specifically address finishes of the blocks, the design relationship between the individual blocks within the

site, the relationship with adjoining development and the interface along the site boundaries. The statement should be supported by contextual plans and contiguous elevations and sections.

6. A site specific student management plan
7. A detailed schedule of accommodation which shall indicate clearly number of bed spaces proposed. Colour coded drawings which clearly indicates individual clusters within the student accommodation element of the proposal and apartment types within the residential element
8. A response to the issues raised by the planning authority in relation to potential noise impacts as referred to in their document by Simon Jennings, Executive Scientist Physical Development Directorate, dated 23rd March 2020 and also as raised at the tripartite meeting of the 26th May 2020.
9. A report that specifically addresses boundary treatment, the proposed building materials and finishes and the requirement to provide high quality and sustainable finishes and details.
10. As per SPPR7 of the Sustainable Urban housing: Design Standards for New Apartments Guidelines for Planning Authorities, March 2018 the development must be described in the public notices associated with a planning application specifically as 'Build to Rent' housing development and a covenant/legal agreement is required at application stage for BTR development.

13.1.4. 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 (NTA)
3. Transport Infrastructure Ireland (TII)
4. Department of Culture Heritage and the Gaeltacht
5. An Taisce
6. Heritage Council

7. Health Service Executive
8. Commission for Energy 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.

Fiona Fair
Senior Planning Inspector
02.06.2020