



An  
Bord  
Pleanála

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

## **Inspector's Report on Recommended Opinion ABP-307008-20**

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<b>Strategic Housing Development</b>	417 no. apartments and associated site works.
<b>Location</b>	Cooldown Commons, Fortunestown Lane, Citywest, Dublin 24
<b>Planning Authority</b>	South Dublin County Council
<b>Prospective Applicant</b>	Cairn Homes Properties Limited
<b>Date of Consultation Meeting</b>	18 <sup>th</sup> June 2020
<b>Date of Site Inspection</b>	22 <sup>nd</sup> May 2020
<b>Inspector</b>	Rónán O'Connor

## **1.0 Introduction**

- 1.1. 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 3.38ha in area and is located immediately north of the Fortunestown Luas stop and the Luas line bounds the site to the south and east. The adjacent lands to the north, north-west and west of the site are currently under construction. The small triangular site to the southeast of the site is currently undeveloped. There is a parcel of land designated for a neighbourhood park to the north-east of the site. An open stream forms the north-east boundary of the site.
- 2.2. The Citywest Shopping Centre is located to the south-east of the subject site, on the opposite side of Fortunestown Lane and the Luas tracks.

## **3.0 Proposed Strategic Housing Development**

- 3.1. The proposed development will consist of the construction of a mixed use development including 417 no. residential units, one retail unit and one cafe on a site of c. 3.38ha. It will comprise 107 no. 1 bed units, 268 no. 2 bed units, 42 no. 3 beds within 7 no. blocks ranging in height from 3 – 11 storeys.
- 3.2. There will be 337 no. car parking spaces (203 no. spaces in basement car park and 134 no. spaces at surface level) and 440 no. cycle parking spaces. The development will provide public open space including a new public plaza north of the Fortunestown Luas stop. There will be three no. shared vehicle, pedestrian and cyclist accesses, 2 no. from the sites to the north and one from the site to the west.

<b>Parameter</b>	<b>Site Proposal</b>
Application site	c3.38Ha
No. of Units	417 units (107 x 1 bed, 268 x 2 bed, 42 x 3 bed)
Residential Density	123 units/ha
Height	3-11 Storeys
Car Parking	337 (203 basement/134 surface)
Vehicular Access	From Citywest Avenue
Part V	41 units
Other Uses	1 no. retail unit (530sq. m) Café (136sq m)
Open Space	Communal 5,196 sq. m Public 7,399 sq. m.

## 4.0 Planning History

- 4.1.1. Currently there are two extant permissions on or partly on the site.

### On Site

SDCC Reg. Ref.: SD16A/0078

Permission was granted by South Dublin County Council for 129 residential units, shops, creche 142 no. car parking spaces and 40 no. bicycle parking spaces

### Partly on Site

ABP Reg. Ref.: ABP 302398 – Grant - 459 no. dwellings.

## 5.0 National and Local Planning Policy

### 5.1. Section 28 Ministerial Guidelines

- 5.1.1. 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 and other national policy documents 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 Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets
- Urban Development and Building Heights Guidelines for Planning Authorities
- Childcare Facilities Guidelines for Planning Authorities
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices)

## 5.2. **South Dublin County Development Plan 2016-2022**

- 5.2.1. The South Dublin County Development Plan is the statutory plan for the area. The site also forms part of the lands identified in the Fortunestown Local Area Plan 2012-2018. The lands are zoned Object RES-N the objective of which is “*to provide for residential communities in accordance with approved area plans*”.
- 5.2.2. In the settlement hierarchy, Saggart/Citywest is designated as an Emerging Moderate Sustainable Growth Town where it is Council policy to support and facilitate development on zoned lands on a phased basis subject to approved LAPs.
- 5.2.3. Chapter 2 of the Plan outlines policies and objectives in relation to new housing and includes objectives relating to urban design, densities, building heights, mix of dwelling types and open space. In particular, section 2.2.2 of the South Dublin Development Plan sets out that densities should take account of the location of a site, the proposed mix of dwelling types and the availability of public transport services. As a general principle, higher densities should be located within walking distance of town and district centres and high capacity public transport facilities. Policies H8 Objectives 1 and 2 promote higher densities at appropriate locations. Development Management Standards are included in Chapter 11.

## 5.3. **Fortunestown LAP 2012 (extended to 2022)**

- 5.3.1. The Fortunestown LAP came into operation on the 14<sup>th</sup> May 2012. On 12<sup>th</sup> June 2017, by resolution, the LAP was extended until 13<sup>th</sup> May 2022. The LAP addresses a specific area of land in the vicinity of Fortunestown, City West and Boherboy and the boundary of the LAP is outlined in Figure 1.1 of the Plan. The Plan outlines urban design principles for the overall plan area with the overall framework outlined in Figure 6.1.
- 5.3.2. The Plan then identifies specific areas within the Plan area. The subject site is within Framework 5: Saggart-Cooldown Commons Neighbourhood which is addressed at Section 6.5 of the Plan and which outlines objectives for the development of the lands (SSNN1-7). It provides that residential development across the Saggart-Cooldown Commons Neighbourhood will be laid out in a grid like format that incorporates perimeter blocks and a hierarchy of streets. It states that in order to facilitate the provision of own door housing, net residential densities of 30-50 dwellings per hectare shall apply to the plan lands. The Plan outlines an accessibility and movement strategy for the lands in Figure 6.22, green infrastructure in Figure 6.23, a built form framework in Figure 6.24 and a land-use and density framework in Figure 6.25. A neighbourhood framework plan is then combined in Figure 6.26.
- 5.3.3. Section 7 of the Plan outlines the standards and design criteria to be applied which are based on the 12 criteria included in the Urban Design Manual. Section 8 deals with Phasing for each of the framework areas and seeks to ensure infrastructure and amenities are delivered in conjunction with residential and commercial development. Table 8.1 outlines 4 phases of development for each framework area. For the Saggart-Cooldown Commons area it is as follows: Phase 1 – 136, Phase 2 – 204, Phase 3 – 273 and Phase 4 – 573 giving a total of 1,186 units. Key outcomes for each phase are contained in Tables 8.2-8.5.
- 5.3.4. Section 5.5.4 of the LAP relates to building height and states:
- “There shall be a maximum height limit of three storeys, with exceptions justifiable only in limited exceptional circumstances.”*
- Section 5.5.5. notes that there are opportunities for landmark buildings at various locations within the LAP area including places that define the location of transport interchanges, significant areas of open space and vistas. LAP Figure 5.9 indicates a

'local landmark' to the north of the public square within the development site. Section 5.5.5 states:

*"These prominent sites/junctions need special design consideration and should promote a more legible urban environment. Gateway and Landmark buildings/structures do not necessarily mean high buildings, but buildings/treatments that are unique in terms of architectural design, finish and visual impact. Such buildings/surfaces/treatments should be easily recognisable and should add to the sense of place and identity in a manner that punctuates their location.*

*Landmark and gateway buildings/treatments will therefore only be permissible where they perform a clear way-finding function and contribute to the legibility of the area."*

LAP section 6.5.5 states the following in relation to the Cooldown- Commons Neighbourhood:

*"Building heights shall range between 2-3 storeys (subject to Development Plan height restrictions from Baldonnell Aerodrome). The higher buildings will be located close to the Fortunestown Centre and Saggart Luas stop. Two storey dwellings shall largely front Garter Lane with the exception of street corners where three storey buildings may be considered."*

## **6.0 Forming of the Opinion**

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

### **6.2. Documentation Submitted**

6.2.1. 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*, the following:

Completed application form; Response to S247; Planning Report; Childcare Assessment; Environmental Impact Assessment Initial Non-Technical Summary;

Statement of Consistency; Material Contravention Statement; Ecological Impact Statement; Screening Report for Appropriate Assessment; Residential Development Pre-Application Report; SHD Housing Quality Assessment; Infrastructure Design Report; DMURS Technical Note; TTA Scoping Exercise; Base-Line Tree Survey and Report; Site Specific Flood Risk Assessment; Preliminary Landscape Design Rationale.

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.

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

### 6.3. **Planning Authority Opinion**

6.3.1. In compliance with section 6(4)(b) of the 2016 Act the planning authority for the area in which the proposed development is located, South Dublin County Council, submitted a copy of their section 247 consultation with the prospective applicant and also submitted their opinion in relation to the proposal. The planning authority's opinion included the following matters.

#### Principle

- Proposal complies with zoning for the site.
- Materially contravenes the Fortunestown LAP in relation to density, building height, unit mix (apartments and 1 bed units) and average floor area per unit.
- PA expect that the Board will state that the LAP does not comply with the relevant S28 Guidelines.
- Density over and above the LAP is premature pending the consideration of the cumulative impact of the permitted and project units on the social infrastructure.
- This area is specified for development of 30-50 dwellings per ha in the LAP/ gross density is 123 dwellings per ha/over double what is allowed under the LAP/higher density than has been permitted elsewhere in Fortunestown.

- Social Infrastructure Audit required.

#### Development Standards/Design/Height/Layout

- Standards – does not achieve 10% over floor area standard.
- Car parking is excessive – ratio of 0.77 being proposed. A maximum of 0.6 should be provided (265 spaces).
- Layout could be redesigned to achieve more defined space i.e. reduce distance between Blocks D and E.
- Link to the east must be agreed – will require a footbridge.
- Height - proposed development contravenes the Fortunestown Local Area Plan with regard to height, in which a limit of 3 storeys is generally sought, with exceptions provided, for instance with landmark sites.
- SDCC would seek that the principle of the built form framework is adhered to, with heights receding from the southern boundary to the north.
- The building does not appear to materially differ from other buildings in terms of form, with the exception of its height.
- Permeability shall be provided to the east by way of a footbridge
- Applicant should reconsider the layout of the focal plaza to provide a single space with tight frontage on 3 sides.
- Aspect - number of single aspect units overlooking amenity spaces/urge the Board against interpreting all amenity spaces as being 'significant amenities'.
- Very few ground floor units are provided with own-door access/groundfloor units should primarily be accessed externally.
- Additional information in relation to public realm proposals is required.

#### EIAR

- The proposed development requires an Environmental Impact Assessment Report, due to the cumulative impact of this and the prior stages of the development.

#### **6.4. Submission of Irish Water**



Irish Water had issued a Confirmation of Feasibility for this development for 330 residential units subject to the following. Irish Water note there is an increase in the number units for this development by 87 to a total of 417. Irish Water has assessed and can accommodate the connection with the increase of units.

Wastewater - it is noted that a new connection to the existing network is feasible subject to an extension and connection via third party infrastructure that has not been taken in charge by Irish Water/full capacity report and condition report will be required with regards to the third party infrastructure at connection application stage.

Water Supply- no Irish Water infrastructure adjacent to the site. A new connection to the existing network is feasible subject to an extension and connection via third party infrastructure that has not been taken in charge by Irish Water/A full capacity report and condition report will be required with regards to the third party infrastructure at connection application stage.

## **6.5. Consultation Meeting**

- 6.5.1. A Section 5 Consultation meeting took place via Microsoft Teams on the 18<sup>th</sup> June 2020. 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 based on the Agenda that issued in advanced and contained the following issues:

- Principle of Development
- Design (inc density/height/layout/unit types etc)
- Residential Standards
- Transport including parking provision/infrastructure requirements
- Social Infrastructure including childcare facilities
- Ecology/Ecological Screening
- Site services
- AOB

6.5.2. In relation to the Principle of Development, ABP representatives sought further elaboration / discussion on:

- Procedural issues in relation to amending the SHD development on the adjacent site.
- Compliance, or otherwise, with the Fortunestown LAP including the phasing set out therein.
- Viability of the proposed retail unit/end use of same.

6.5.3. In relation to the Design, ABP representatives sought further elaboration / discussion on:

- Proposed Height, particularly in light of the LAP.
- Layout in relation to the location of blocks, defined urban space, own door units/duplex units, landscaping and surface parking.

6.5.4. In relation to Residential Standards, ABP representatives sought further elaboration / discussion on:

- Residential design standards including floor areas, number of dual aspect units and quality of courtyard spaces.

6.5.5. In relation to the Social Infrastructure, ABP representatives sought further elaboration / discussion on:

- Proposed social infrastructure.
- School and childcare infrastructure.

6.5.6. In relation to Ecology/Ecological Screening, ABP representatives sought further elaboration / discussion on:

- Ecology/Impact on stream.
- ABP note that the applicant has stated that an EIAR is to be submitted.

6.5.7. In relation to Site Services, ABP representatives sought further elaboration / discussion on:

- Surface Water Attenuation.
- Irish Water submission.

6.6. Both the prospective applicant and the planning authority were given an opportunity comment and respond to the issues raised by the representatives of ABP. Those comments and responses are recorded in the 'Record of Meeting ABP-307008-20' 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.

## 7.0 Conclusion and Recommendation

- 7.1. 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.
- 7.2. I have examined all of the information and submissions before me including the documentation submitted by the prospective applicant, the submissions of the planning authority 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 development plan for the area.
- 7.3. Having regard to the above, I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 6(7)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016, stating that it is of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act: **constitutes a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.**
- 7.4. 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.

## 8.0 Recommended Opinion

- 8.1. 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.
- 8.2. 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 **would constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.**
- 8.3. Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that, in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission:
1. An appropriate statement in relation to section 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016, that outlines consistency with the relevant Development Plan/Local Area Plan and that specifically addresses any matter that may be considered to materially contravene the said plan, if applicable.
  2. A report that addresses issues of residential amenity (both existing and future residents of nearby development and future occupants), in particular addressing any potential overlooking of the permitted development to the north-east of the site, from the proposed duplex units. The report shall include full and complete drawings including levels and cross-sections showing the relationship between the proposed development and nearby existing and permitted residential development. The report shall also address daylight/sunlight impacts,

overshadowing, overbearing and noise. An analysis of wind microclimate at ground level is also required.

3. Additional details in relation to site services, and in relation to flood risk, having regard to the requirements of South Dublin County Council, as stated in the Water Services Planning report dated 1<sup>st</sup> May 2020, and having regard to the having regard to the comments included in the Irish Water Submission on this pre-application dated 18<sup>th</sup> May 2020. These include additional details/revised proposal in relation to SuDS, and the potential need to obtain third party consents for foul and water infrastructure. In relation to flooding, additional details are required in relation to existing drainage ditch flows through the site and how this will be maintained post-development. In addition, and further to discussions at the tri-partite meeting, additional details are required in relation to any history of flooding on or around the site.
4. Details and/or revised proposals (as appropriate) that address the concerns raised by the Roads Department which are set out in the report dated 28/04/202. These include details/purpose of the 4.8m wide road to the north of the Luas Stop; a reduction in the rate of car parking proposed on the site or further justification for the level of car parking proposed on the site; details drawings showing links to adjacent sites, including the link/footbridge connection to the proposed neighbourhood park to the east of the site/revised entrance proposals to the basement car park or further justification for the single entrance as proposed; Mobility Management Plan; Public Lighting Scheme; Construction Management Plan.
5. Additional landscaping details to address the issues raised in the report of the Parks and Landscape Services Division dated 11/05/2020 including details of play and fitness items; SuDS features; planting plan and cross-sections.
6. A detailed landscaping plan for the site which clearly sets out proposals for hard and soft landscaping including street furniture, where proposed.
7. Landscape and Visual Impact Assessment with photomontages and CGIs of the proposed development.

8. Viability Study for the proposed retail unit.
9. A Social Infrastructure Capacity Report.
10. A site layout plan, which clearly indicates what areas are to be taken in charge by the Local Authority.
11. AA Screening report.
12. The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 should be submitted as a standalone document (unless it is proposed to submit an EIAR at application stage).

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

1. Irish Water
2. Irish Aviation Authority
3. Operator of Baldonnell Aerodrome
4. Transport Infrastructure Ireland
5. National Transport Authority
6. Transdev
7. Inland Fisheries Ireland
8. South Dublin 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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Rónán O'Connor

Senior Planning Inspector

8<sup>th</sup> July 2020