



An  
Bord  
Pleanála

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

### **Inspector's Report on Recommended Opinion ABP-307984-20**

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<b>Strategic Housing Development</b>	1,053 residential units (26 houses and 1,027 apartments), retail units and crèche and associated site works.
<b>Location</b>	Former O' Devaney Gardens Site, Dublin 7.
<b>Planning Authority</b>	Dublin City Council
<b>Prospective Applicant</b>	Bartra ODG Limited.
<b>Date of Consultation Meeting</b>	28 October 2020.
<b>Date of Site Inspection</b>	14 October 2020.
<b>Inspector</b>	Stephen Rhys Thomas

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## 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 (stated area 5.1909 ha) is located on lands known as O'Devaney Gardens. These lands accommodated a housing scheme known as O'Devaney Gardens, all buildings associated with this former scheme are now demolished. The site sits to the south east of the North Circular Road and adjoins the residential area known as Stoneybatter. All surrounding lands are characterised by older housing stock, with some exhibiting a fine historic character. St Bricin's Military Hospital is located to the east of the site and is an austere Edwardian institutional building set in large grounds with a mid-twentieth century chapel building closest to the site.
- 2.2. The site is more or less level and has road access to the North Circular Road, Montpelier Gardens and Thor Park. Apart from the roads that cut across the site, the condition of the lands is best described as waste ground. Construction of residential units is currently underway to the west of the site and forms a coordinated approach to the overall development of the site.

## 3.0 Proposed Strategic Housing Development

The proposed development will comprise of 1,053 residential units including a mix of one, two and three bed apartments, three bed duplex and three bed dwellings and all associated ancillary accommodation. Non-residential uses at ground floor / street level will include 6 retail units (1,063sqm), a café (70sqm), crèche facility (485sqm) and a community facility (108sqm).

Dwelling Mix		
Unit type	Number of units	Percentage
1 bed	333	31.5
2 bed	587	55.5
3 bed	133	13
Total	1,053	

## 4.0 Planning History

### 4.1. Subject site

**ABP Ref. JA0024** - 110 no. units located in 4no. blocks.

**Reg Ref: 3455/08** - Demolition of 4 four storey blocks, a single storey community building, a crèche and a two-storey block containing 4 retail units.

**Reg Ref: 3607/10 and 2945/16** - Demolition of the remaining blocks of flats.

## 5.0 National and Local Planning Policy

### 5.1. Section 28 Ministerial Guidelines

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 S.28 Ministerial Guidelines are:

- 'Urban Development and Building Heights Guidelines for Planning Authorities' - 2018
- 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities' - 2018
- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual') 2009
- 'Design Manual for Urban Roads and Streets' 2013 (as amended)

- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’)
- ‘Childcare Facilities – Guidelines for Planning Authorities’ 2001

## 5.2. Dublin City Development Plan 2016-2022

The site has the standard residential zoning objective Z14 ‘To seek the social, economic and physical development and/or rejuvenation of an area with mixed use of which residential and Z6 would be the predominant uses.’ Zoning objective Z6 states – ‘To provide for the creation and protection of enterprise and facilitate opportunities for employment creation’.

The subject site is located in Strategic Development and Regeneration Area 11 (SDRA 11 Stoneybatter, Manor Street and O’Devaney Gardens). The key guiding principles for developing this strategic development and regeneration site include eight specific measures, of most relevance - :

- The strategic location context of this site within the city (close to the amenities of the Phoenix Park, Heuston Station and the new Criminal Courts of Justice), its potential positive contribution to the character of the city and the potential that exists for greater synergies to Stoneybatter and Grangegorman will be valued and promoted; there is an opportunity for a mid-rise residential building towards the centre of the site, similar to that within the Grangegorman SDZ.
- The development of a high-quality residential quarter comprising quality new homes supported by a complementary range of mixed commercial, community and recreational facilities will be promoted for this site. The site will provide for a mix of tenure with social, affordable and private housing all provided on site.
- The development of attractive new streetscapes with mixed typologies of high-quality accommodation, a high-quality public realm and active street frontages will be promoted to complement the architectural legacy of streetscapes adjoining this location, including the special streetscapes of the North Circular Road, Infirmary Road and Oxmantown areas.
- The development of a neighbourhood park as a key feature of the design to provide recreational amenities, encourage community interaction and provide

a focal point/meeting place for the wider local community; the location will be bounded by high quality streetscapes accommodating commercial, community and residential uses to generate activity, encourage active use of the space and provide passive surveillance. To provide space for an all-weather pitch, multiple use games area (MUGA), community centre, and community garden. Provide quality open green spaces consisting of a minimum of 15% of the site area. Green spaces can serve as sites of social exchange and communicate a respect for nature as a guiding design principle for the site.

- The established character of streets and residential amenities for adjoining residents will be respected in the urban design proposals and layout of a new development; opportunities for new building forms to aid legibility through the scheme and create streetscapes of visual interest will incorporate appropriate height transitions from site boundaries and propose locations that avoid negative impact on adjoining residential boundaries.
- Permeability through the site will be promoted to integrate the location more successfully with the adjoining community; the existing bus route will be retained and incorporated along a main boulevard route connecting the North Circular Road to Montpelier Gardens; opportunities for connections with streets to the north-east boundary, with particular emphasis on walking and cycling routes, will be encouraged.

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

- 6.1. A copy of the record of the consultations held with the Planning Authority regarding the proposal currently before the Board has been included as part of the planning authority's submission. A meeting was held in respect of the proposal on the following date: 9 March 2020.

## **7.0 Prospective Applicant's Case**

- 7.1. 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.

The information submitted included the following:

- ABP Cover Letter
- ABP Application Form
- Schedule of Accommodation
- Part V Proposal
- Architects Drawings
- Landscape Architects
- Engineering Drawings
- Planning Statement (incl. Statement of Effects on Environment and European Sites)
- Statement of Consistency / Material Contravention Statement
- Design Statement
- Landscape Architect's Report
- Engineering Services Report (incl. Irish Water Confirmation of Feasibility)
- Site Specific Flood Risk Assessment
- Traffic Impact Assessment
- DMURS Statement
- Mobility Management Plan
- Outline Construction Management Plan
- Screening Report for Appropriate Assessment

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

## 8.0 Planning Authority Submission

8.1. 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 copy 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 16 September 2020. The planning authority's 'opinion' included the following matters:

Zoning – The site has the standard residential zoning objective Z14 'To seek the social, economic and physical development and/or rejuvenation of an area with mixed use of which residential and Z6 would be the predominant uses.' Zoning objective Z6 states – 'To provide for the creation and protection of enterprise and facilitate opportunities for employment creation'. All proposed uses are permissible.

Masterplan and overall density – the provision and design of open space is broadly acceptable. With regard to pedestrian and cyclist connectivity, a conflict of desire line may arise because of the positioning of blocks B04a, B04b and B05. Further detail required in relation to the layout and future use of the North Linear Park. The location of the MUGA may interrupt views of St Bricin's.

Plot ratio and site coverage – the proposal complies with the requirements for Z14 zoned land.

Building height and massing – the development ranges between 2 and 12 storeys. Concerns about blocks B02, B06 and B10 and their impact upon neighbouring property. Concern too about 12 storeys at the centre of the development and this assists placemaking. Articulation and massing of blocks B06 and B10 questioned. Main open space should have active frontages, possibility to relocate commercial elements from Mink Street to central neighbourhood park. The daylight/sunlight studies return poor results.

Residential and neighbourhood quality – unit mix is acceptable. A full HQA has not been submitted, floor areas and design quality should meet the required standards. Dual aspect ratios cannot be assessed, however, 52 single aspect north facing units is not acceptable. Private open spaces should meet the required standards and it should be demonstrated that outdoor communal spaces receive adequate light.

Concern is raised in relation to lengthy corridors and the number of units per lift core, blocks B04a, B04b, B05 and B09 are highlighted.

Impact on the adjoining area – lower buildings should be located close to existing property.

Car and cycle parking – certain technical clarifications are required.

A number of technical clarifications are required in relation to biodiversity, archaeology and the drainage aspects of the development. Matters to do with AA and EIA are the concern of the competent authority, in this case An Bord Pleanála.

## **8.2. Submission from Irish Water (IW)**

A submission was received from Irish Water and is available on file. In summary, the submission states in order to facilitate connection(s) for this development to Irish Water's water network the following upgrades are required:

- Connection main - (Approx.) 35m of new 200mm ID pipe main to be laid to connect the site development to the newly laid 200mm ID main and connect up to the existing 150mm DI. Bulk meter to be installed on connection main with capability to link up to the online telemetry system. Connection between the new 200mm ID main and 150mm DI main will replace the existing 4" CI.
- Secondary connection main – (Approx.) 20m of new 200mm ID pipe to be laid to connect the site development to the existing 12" CI. Operational valve to be installed on the connection main, to be set closed for normal operation.
- Pipe Upgrades – (Approx.) 140m of new 200mm ID pipe to replace the existing 6" and 4" CI.

Irish Water has completed a hydraulic modelling assessment along with investigative studies downstream and confirms that there are no upgrades required to facilitate connection(s) for the proposed development.

## 9.0 The Consultation Meeting

9.1.1. A section 5 Consultation meeting took place via Microsoft Teams on the 28 October 2020, commencing at 10.00 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.

9.1.2. The main topics raised for discussion at the tripartite meeting were based on the Agenda that issued in advance and contained the following issues:

In relation to the site interface, St Bricin's and overall height strategy, ABP representatives sought further elaboration/discussion on the rationale for the proposed interface with St Bricin's, east of the site. In particular, the height strategy selected for this location was discussed. The applicant explained that the site was designed to meet any future proposals that may emerge for St Bricin's and that computer generated images and site context views would be useful from their grounds. The planning authority raised concerns about height and its contribution to placemaking. The interface between the development at the northern end of the site and Ashford Place, Ashford Gardens and Ross Street, was discussed at length. Issues raised by the planning authority about safe means of access, particularly at narrow pedestrian cut throughs should be avoided. The planning authority stated that no masterplan is required for the area and an LAP would not be prepared. The applicant addressed interface issues around the margins of the site and concentrated on pinch points where greater design considerations were necessary. Board officials noted that individual case studies of where interface issues might arise should be prepared and submitted with an application. The issue of height was discussed and if proposed heights were greater than that planned for in the relevant development plan, a statement should be considered.

In relation to permeability and landscape strategy (northern portion of site), ABP representatives sought further elaboration/discussion on the pedestrian and cyclist

permeability strategy through the site. The hierarchy of open spaces was discussed and particularly the northern linear space, its form and function was focused on. Board officials thought it would be useful to see what the wider movement patterns are in the area for pedestrians and cyclists and exactly how the site could add to these networks. The planning authority required more consideration of the extent of perimeter blocks and how they interact with permeability, for instance block B should be reconsidered to favour pedestrian movements. The applicant explained their strategy for the site and agreed that greater analysis may be needed to illustrate the site in the context of the wider area.

In relation to residential amenity – dual aspect ratio and usability of amenity spaces, ABP representatives sought further elaboration/discussion on the data concerning residential amenity standards, the submission of a housing quality assessment is essential. The ratio of dual aspect was queried and concern was expressed by the planning authority that meeting the minimum standard should not be the case. The applicant explained their rationale and stated that perhaps there is a slightly higher proportion of dual aspect apartments that could be supplied. It was also accepted that the documentation required the preparation of a HQA and this would form part of any application. In addition, the applicant was reminded to carefully consider the impact of the proposed development on existing residential units at the margins of the site.

In relation to any other matters, ABP representatives reminded the applicant to engage further, as necessary, in terms of any outstanding or more refined transportation issues (pedestrian and cyclist permeability) and to outline their Part V strategy.

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 307984' 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.

## 10.0 Assessment

- 10.1. 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.
- 10.2. 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 s.28 Ministerial Guidelines, and local policy, via the statutory plan for the area.
- 10.3. Having regard to all of the above, I recommend that further consideration and/or possible amendment of the documents submitted are required at application stage as set out in the recommended Opinion below.

### Conclusion

- 10.4. 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 requires **further consideration and amendment** in order to constitute a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 10.5. 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.

## 11.0 Recommended Opinion

- 11.1. 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.

- 11.2. 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 **requires further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.**
- 11.3. In the opinion of An Bord Pleanála, the following issues need to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could result in them constituting a reasonable basis for an application for strategic housing development:

#### 1. Height and Placemaking

Further consideration/justification of the documents as they relate to the development strategy for the proposed scheme. While higher densities and changes to the cityscape in terms of higher elements and taller buildings at this location may be appropriate, the applicant is required to provide adequate rationale and justification to support such additions to the area, including further consideration/justification of the documents as they relate to the potential visual impact of the development and its interaction with St Bricin's to the east, in particular in relation to design, integration, materiality and massing. The applicant should reference the development management criteria set out in the Urban Development and Building Heights guidelines, where on larger urban redevelopment sites, proposals should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety to respond to the scale and character of adjoining developments. The further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

## 2. Residential Amenity

Further consideration/justification of the documents as they relate to the residential amenity strategy for the proposed scheme. The perimeter block layout outlined for the central portions of the site should ensure adequate levels of residential amenity for future occupants. In this context the documentation should appropriately and reasonably describe and illustrate good levels of sunlight and daylight penetration to the courtyard amenity spaces at the centre of blocks. At the scale of the building the documentation should demonstrate an adequate design response for ground floor level units at more sensitive locations, such as at the junction of blocks with less favourable orientations, i.e. corner sites and where necessary set out compensatory design solutions

In terms of the wider amenity, convenience and public realm, the documentation should demonstrate how apartment block length and articulation will assist with pedestrian and cyclist permeability through the site. All in the context of assisting modern placemaking and improving the overall quality of the urban environment at this key regeneration location. The further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

## 3. Site Connections

Further consideration/justification of the documents as they relate to the interface between the eastern side of the proposed development site with St Bricin's and the northern portion of the site with Ross Street/Ashford Place/Ashford Cottages to specifically address the following:

- The possibility for future seamless connection between the site and St Bricin's to the east.
- Assessment of visual impacts on St Bricin's to include existing and permitted structures within that site.
- Consideration of potential impacts on the development potential of adjacent lands within St Bricin's.
- The documentation should demonstrate how apartment block length and articulation will assist with pedestrian and cyclist permeability through the site.

- Consideration of safe, secure and passively supervised pedestrian and cyclist connections to the north of the site, in the vicinity of Ross Street/Ashford Place/Ashford Cottages.

The further consideration of these issues may require an amendment to the documents and/or design proposals submitted relating to density and layout of the proposed development.

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 detailed schedule of accommodation (Housing Quality Assessment) which shall indicate compliance with relevant standards in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2018, including its specific planning policy requirements. Particular attention shall be directed to the provision of adequately designed and an appropriate quantum of dual aspect apartments.
2. A building life cycle report shall be submitted in accordance with section 6.3 of the Sustainable Urban housing: Design Standards for New Apartments (2018). The report should have regard to the long term management and maintenance of the proposed development.
3. Site Specific Construction and Demolition Waste Management Plan.
4. A detailed landscaping plan for the site which clearly differentiates between areas of public, communal and private open space and which details exact figures for same. Details should also include proposals for hard and soft landscaping including street furniture, where proposed, which ensures that areas of open space are accessible, usable and available for all. Pedestrian permeability through and beyond the site should be outlined. Details of the interface between private and communal areas should also be detailed.

Additional cross sections, CGIs and visualisations should be included in this regard. The landscaping plan should critically assess the best and most appropriate way to incorporate underground car parking ventilation structures.

5. 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.
6. Given the city centre location and availability of public transport, a rationale for the proposed car parking provision should be prepared, to include details of car parking management and car share schemes.
7. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement indicating the plan objective (s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.

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. Department of Culture, Heritage and the Gaeltacht
5. Heritage Council
6. An Chomhairle Ealaíon
7. An Taisce
8. Dublin City 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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Stephen Rhys Thomas  
Senior Planning Inspector

17 November 2020