



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-308110-20



Strategic Housing Development

227 apartments

Location

Finglas Road, Dublin 11

Planning Authority

Dublin City Council

Prospective Applicant

Ruirside Developments Ltd

Date of Consultation Meeting

8 December 2020

Date of Site Inspection

3 December 2020

Inspector

Stephen Rhys Thomas

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 5km north-west of Dublin city centre on the Finglas Road, which is an arterial route and a dual carriageway at this location. The site has a stated area of 1.23 Hectares. It is vacant brownfield land. It has frontage onto the Finglas Road. The depth of the site is approximately 60m. The development to the south of the site across the Finglas Road consists of a nursing home and apartment buildings with a scheme on the neighbouring site to the south between 4 and 7 storeys high called Premier Square. The land immediately across the road to the west of the site is occupied by retail warehouses that are part of the Clearwater Shopping Centre. They back onto the Finglas Road. The shopping centre has a single access from the Finglas Road at a junction at the northern end of the application site. It also has a petrol station and a large surface car park with a supermarket. The land to the north and east of the site is occupied by low density 20th century two storey housing. The north-eastern site boundary adjoins the back gardens of houses along Glenhill Road. The houses are on higher ground, and the street at Glenhill Road is 10m higher than the Finglas Road.

3.0 Proposed Strategic Housing Development

3.1. It is proposed to build 227 apartment units and ancillary accommodation, the detail comprises:

| Units Type | Number of units | % of each Unit type |
|-------------------|------------------------|----------------------------|
| Studio | 49 | 22 |
| 1 bed | 64 | 28 |
| 2 bed | 114 | 50 |
| Total | 227 Units | 100% |

Key development details:

| Detail | Proposal |
|--|---|
| Number of Units | 227 units |
| Other uses | Childcare facility – 237 sqm (64 children) Residential amenity – 121 sqm |
| Site Area – stated by applicant | 1.23 ha red-line boundary |
| Density | 185 units per hectare net (stated by applicant) |
| Building Height | 1 – 8 storeys |
| Public/Communal Open Space | 2,999 sqm (all external spaces, 24% of total site) |
| Dual Aspect Apartments | 59% |
| Car parking | 108 spaces (83 surface, 25 undercroft) |
| Bicycle spaces | 275 spaces |

The apartments would be provided in three blocks laid out along the front of the site. The blocks would be between 6 and 8 storeys high. Access would be from an existing but unused junction on the Finglas Road in a southern projection of the site than lies between the road and one of the blocks at Premier Square.

4.0 Planning History

4.1. Relevant planning history includes:

- 4.2. **ABP-305312-19** – Permission for 245 apartments, childcare facility and all associated site works. Decision quashed by High Court (2020 No. 45 J.R.) July 2020, because:

The materials before the court do not disclose that SPPR 3(A) applies to the proposed development such as to permit the Board to grant permission notwithstanding the material contravention of the said Development Plan;

Board failed to state main reasons and considerations for contravening materially the Dublin City Development Plan 2016-2022 and therefore acted contrary to the requirements of s.10(3) of the 2016 Act.

- 4.3. Reg. Ref. **4033/09** and **PL29N.235697** - Permission for 90 apartments 5-6 storeys over basement (maximum height of 20.75 metres) and a crèche.
- 4.4. Reg. Ref. **2329/07** – the planning authority refused permission on 17th February 2009 for 90 apartments on the site in a building 6 storeys high. The reason for refusal said the requirements of the Drainage Division had not been met.
- 4.5. Reg. Ref. **2931/07** and **PL29N. 227162** – the Board refused permission on 8th July 2008 for 175 apartments and a creche on the site in buildings 5 to 7 storeys high. The reason for refusal said the development would be overbearing on residential properties to the east and would overlook those to the south, and so would injure the visual and residential amenities of the area. The planning authority had decided to grant permission.
- 4.6. Reg. Ref. **1378/04** and **PL29N.206989** – In 2004 the Board and the planning authority refused permission for a supermarket on the site.
- 4.7. Reg. Ref. **1039/04** – the planning authority granted permission in 2004 for 60 apartments on the site.

5.0 Policy

5.1. National Policy

The government published the National Planning Framework in February 2018. Objective 3a is that 40% of new homes would be within the footprint of existing settlements. Objective 27 is to ensure the integration of safe and convenient alternatives to the car into the design of communities. Objective 33 is to prioritise the

provision of new homes where they can support sustainable development at an appropriate scale.

The applicable section 28 guidelines include -

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
- Design Manual for Urban Roads and Streets'
- Guidelines for Planning Authorities on Urban Development and Building Heights, 2018
- Sustainable Urban Housing: Design Standards for New Apartments (2018),
- Childcare Facilities – Guidelines for Planning Authorities
- The Planning System and Flood Risk Management (including associated Technical Appendices).

5.2. Local Policy

5.2.1. The **Dublin City Development Plan 2016-2022** is the operative development plan for the area. The site is zoned objective Z1: To protect, provide and improve residential amenities. Section 16.3.3 states that where sites cannot accommodate public open space a financial contribution in lieu will be required. Section 16.5 of the plan gives an indicative plot ratio standard of 0.5-2.0 in this zone. Section 16.7 of the plan establishes a building height limit of 16m in this location. Section 16.10.4 sets out guidance regarding Making Sustainable Neighbourhoods.

5.2.2. The Plan also includes a number of policies of relevance including:

QH7: To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

QH8: To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

QH18: To promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.

QH19: To promote the optimum quality and supply of apartments for a range of needs and aspirations, including households with children, in attractive, sustainable, mixed-income, mixed-use neighbourhoods supported by appropriate social and other infrastructure.

QH20: To ensure apartment developments on City Council sites are models of international best practice and deliver the highest quality energy efficient apartments with all the necessary infrastructure where a need is identified, to include community hubs, sports and recreational green open spaces and public parks and suitable shops contributing to the creation of attractive, sustainable, mixed-use and mixed-income neighbourhoods.

6.0 Forming of the Opinion

6.1. Documentation Submitted

The prospective applicant submitted extensive documentation including drawings of the proposed development and –

- Pre-planning application form
- Confirmation of Feasibility Statement from Irish Water dated 18 August 2020.
- Part V Proposal
- Pre-Planning Application Planning Report, including Statements of Consistency with Statutory Plans and Section 28 Ministerial Guidelines, and Description of Possible Effects on the Environment.
- Community Infrastructure Audit
- Schedule of Accommodation and Housing Quality Assessment
- Architectural Design Statement

- Statement of Consistency with Urban Design Manual 2009
- Landscape Masterplan
- Engineer's Services Report, including Statement of Consistency with Ministerial Guidelines: The Planning System and Flood Risk Management
- Transport Assessment, including Statement of Consistency with Ministerial Guidelines: Design Manual for Urban Roads and Streets
- Mobility Management Plan
- Photomontage Booklet

6.2. Statement of consistency

The proposed residential development of brownfield land in the city close to a range of facilities along a bus corridor would meet various objectives of the NPF including 13, 27, 21, 33 and 35. The net density would be 185 dwelling units per hectare which would be in keeping with the advice in the 2009 sustainable urban residential guidelines. The design would comply with the 12 criteria in the manual issued with those guidelines. The floor area of the apartments would comply with the 2018 guidelines on the design of new apartments. Most of them would exceed the minimum by 10% or more. 59% of apartments would have dual aspect. The height of the development can be justified under the 2018 guidelines on urban development and building height. The site is well served by public transport and is on a high frequency bus route. The design and height of the blocks would be varied. It would provide streetscape and legibility in this urban area. The layout has had regard to Premier Square and Glenhill housing, as does the stepping down of the height and separation distances involved. The development would widen the range of building and dwelling types in the area. The site is not at risk of flooding and would be appropriate for housing under the 2009 guidelines on Flood Risk Management. The submitted transport assessment demonstrates compliance with DMURS. A childcare facility is proposed in line with the guidelines on that topic.

The proposed development complies with the zoning of the site under the city development plan and the various provisions of that plan in favour of good housing. It meets the minimum standards for bike parking and the maximum standards for car

parking. A Material Contravention Statement has been submitted in relation to section 16.7 of the development plan, building height restrictions and in relation to dwelling mix.

Information is submitted that would inform screening exercises in relation to EIA and AA. It concludes that the proposed development would not be likely to have a significant effect on the environment or any Natura 2000 site and so neither an EIA nor an AA would be required.

6.3. Planning Authority Submission

- 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, 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 6 October 2020. The planning authority's 'opinion' included the following matters:

Zoning – The entire site is governed by the land use zoning Z1. Residential use is a permissible use in the zoning, while Childcare facilities and open space are also permissible uses.

Height - The proposal for a development with building heights of up to 25.4m (block 2) would materially contravene the Dublin City Development Plan 2016-22. All blocks exceed maximum allowable height standards set out in the city development plan. Having regard to the planning history of the site, the city development plan and recent national policy issue on height, density and apartment standards the planning authority considers that the subject site's is appropriate for taller buildings as part of a higher density scheme. However, amendments to design are required at the scale of the site/building, issues such as daylight/sunlight provision are a concern and the height of Block 3 could be reduced to better respond to local housing.

Public Open Space – the site is constrained and the provision of usable public open space may not be possible, contribution to play equipment in the area may be acceptable. The design and layout of communal open space is broadly acceptable however, the application is invited to consider the provision of podium level open space over the surface car park extending from Block 2.

Communal Open Space – a clarification of the calculation of communal open space is required, and some spaces are clearly not usable.

Design and Layout – there are concerns that the quantum and design of dual aspect units is inadequate. Subject to a reduction in the height of block 3 and subject to good quality materials, the Planning Authority is relatively comfortable with the visual impact of the proposal. The proposed housing mix is noted and SPPR 1 of the apartment guidelines is also noted. The submission of a HQA is noted, however, individual room dimensions are omitted and some room widths may not be acceptable.

Daylight and Shadow Assessment – no documentation has been submitted and is required.

Communal Facilities - The pre-application material does not include a detailed breakdown of what community facilities are proposed. This information should be included in the application material.

Surface Water Management - In terms of flood risk management, the flood management measures as outlined in the Strategic Flood Risk Assessment that forms part of the 2016-2022 Development Plan should be addressed and implemented as part of the design proposal. Confirm the proposed route to construct the connection to the existing surface water sewer on Finglas Road.

A material contravention statement has been submitted; this is noted. In relation to matters that concern childcare facilities, community/social infrastructure, AA and EIA; the planning authority are satisfied that these matters have been adequately addressed in the documentation submitted. The planning authority are satisfied that the proposed development appears to be broadly consistent with the proper planning and sustainable development of the area, provided certain issues are addressed including:

- Reduce the height of Block 3 to provide for a part 5-storey/part 6-storey block.
- Amenity space to the Finglas Road requires adjustment to improve residential amenity.

- A podium level open space could be provided across the surface car parking to the rear of Block 2.
- HQA should meet standards and drawings should show all dimensions.
- Dual Aspect, quantum and design questioned. Alternate dual aspect design required.
- Applicant should note content and requirements of other internal reports from the Council, as well the submission of full Sunlight/Daylight studies, Community Audit and Ecologist Report.

The submission included the record of two meetings with the prospective applicant under section 247 of the planning act.

6.4. Other submissions

Irish Water reports that it can facilitate the proposed connections to its networks, without upgrades.

6.5. The Consultation Meeting

- 6.5.1. A section 5 Consultation meeting took place via Microsoft Teams on the 8 December 2020, commencing at 2.30pm. 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.

1. Open space strategy
2. Site interface with Finglas Road
3. Residential Amenity – dual aspect
4. Issues that arose out of the previous application
5. Any other matters

1. In relation to the Open space strategy, ABP representatives sought further elaboration / discussion on the usability of the open space particularly at the margins of the site and whether consideration had been given to the planning authority's

suggestion of a different approach by providing an additional podium level open space. The prospective applicant explained the open space design rationale and changes that had taken place since the previous proposal, planting around car parking spaces has been reconfigured and the elevator up to the main open space has been relocated to a central position. The addition of a podium over car parking is not considered to be appropriate and this will be explained in the landscape design masterplan. The planning authority note that the open space along the western margin of the site alongside the Finglas Road is not so usable and its inclusion in the overall area of open space is questioned.

2. In relation to the Site interface with Finglas Road, ABP representatives sought further elaboration / discussion on the how the Finglas Road will be addressed by the proposed development. Specifically, detailed cross sections and other images to illustrate this important interface with the street are needed. The prospective applicant explained that a low wall and fence would run along the boundary with the Finglas Road, planting would ensure privacy for ground floor apartments. There is a slight level change and this is illustrated in cross sections. Green roofs will reduce the reliance of swales along this strip of space along the street. The planning authority thought it useful if the usability of each area of open space were better explained, showing different areas of use and where buffer strips would be located.

3. In relation to the Residential Amenity – dual aspect, ABP representatives sought further elaboration / discussion on the design rationale behind dual aspect units within the proposed development and ensure that standards are met. The prospective applicant explained that the stair core is located to present a ‘T’ plan and the design of dual aspect units has been accommodated around this central point. The planning authority raised no major issues in relation to dual aspect, however a design rationale should be included by the applicant justifying the methodology for calculating the dual aspect units.

4. In relation to the Issues that arose out of the previous application, ABP representatives advised that previous issues raised in reports by the Board should

be fully addressed in an application. Any issue regarding flooding that was raised in the previous proposal should be resolved prior to the lodgement of a new application. The prospective applicant explained that a number of points have been picked up from the previous proposal and incorporated in the new development such as: the use of frosted glass on the balconies to reduce any possible overlooking of adjoining properties, aerial enclosure proposals will be fully documented and submitted with the application documents and robust arguments will be provided to address any concerns previously raised. The Office of Public Works (OPW) maps do not identify a flooding event to have occurred on the lands, there was an inadequate repair previously carried out resulting in an overflow. This will be referenced in the flood risk assessment. Any surface water drainage proposals will be fully addressed prior to a new application.

5. In relation to the Any Other Matters ABP representatives sought further elaboration / discussion on the provision of public open space or other methods of meeting open space obligations and the importance of reaching the terms of an agreement prior to making an application would be useful. The prospective applicant explained that discussions are ongoing and that the preference of the Parks Department is to agree a financial contribution and invest in open space and play areas in the vicinity of the site. The planning authority reiterated their concern about public open space and directed the applicant to their issues raised in the report submitted. There is scope to liaise further with the Parks Department prior to submitting an application.

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-308110-20' 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 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 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, and submissions received from statutory consultees referred to under Section 6(10) of the Act, 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 arising from this notification:
1. Drawings and detailed specifications that show works on and in the public realm, specifically upgrades to junctions and footpaths. In addition, drawings should show, if known, the alignment and requirements for any future public transport improvements along the Finglas Road (BusConnects). This may require further engagement with the local authority and any other agencies responsible for delivery of same.
 2. Cross sections that detail public realm, landscaping and apartment block interfaces at various locations, but specifically where levels change and where space is limited. Locations for analysis should include, but are not limited to; along the Finglas Road and the interface between block 3 and the landscaped margin with Glenhill Road to the north west. The applicant is urged to consult the Design Manual for Urban Roads and Streets, with particular reference to streetscape, the pedestrian and cyclist environment and carriageway conditions.
 3. Daylight/Sunlight analysis to an appropriate scale, showing an acceptable level of residential amenity for future occupiers of the proposed development, which includes details on the standards achieved within the proposed residential units, in all private and shared open space, and in public areas within the development. Where daylight and sunlight results are below optimal, compensatory measures such as larger units, increased floor to

ceiling heights and maximised window volumes should all be considered. The analysis should also consider potential overshadowing impacts on all areas of proposed open space within the scheme, adjoining residential areas and other sensitive receptors. Specific regard should be had to ground floor apartments at sensitive locations and existing adjacent properties. Drawings that detail dual aspect ratios should be clearly laid out and accompanied by a detailed design rationale report.

4. A detailed landscaping plan for the site which clearly sets out proposals for hard and soft landscaping including street furniture where proposed and indicates which areas are to be accessible to the public, if any.
5. Given the location and availability of public transport, a rationale for the proposed car parking provision should be prepared, to include details of proposed car parking management and car share schemes.
6. A site layout plan, which clearly indicates what areas are to be taken in charge by the Local Authority.
7. Surface water drainage proposals to address issues raised in the report of the Engineering Department – Drainage Division of Dublin City Council dated 01 October 2020, with specific reference to a surface water sewer that runs through the site and details with regard to its diversion.
8. A report that specifically addresses the proposed building materials and finishes and the requirement to provide high quality and sustainable finishes and details. Particular attention is required in the context of the visibility of the site and to the long-term management and maintenance of the proposed development. A building lifecycle report for apartment buildings in accordance with section 6.13 of the 2018 Apartment Design Guidelines is also required.
9. A housing quality assessment which provides details regarding the proposed apartments set out in the schedule of accommodation, as well as the calculations and tables required to demonstrate the compliance of those details with the various requirements of the 2018 Guidelines on Design Standards for New Apartments including its specific planning policy requirements.

10. 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.

8.4. 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. Transport Infrastructure Ireland
3. National Transport Authority
4. 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.

Stephen Rhys Thomas
Senior Planning Inspector
December 2020