



An  
Bord  
Pleanála

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

### **Inspector's Report on Recommended Opinion ABP-309697-21**

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**Strategic Housing Development**

Demolition of existing structures, construction of 111 no. apartments, 4 no. telecommunications antennae and associated site works.

**Location**

Sommerville House, Dundrum Road, Dublin 14.

**Planning Authority**

Dun Laoghaire Rathdown County Council.

**Prospective Applicant**

Eircom Limited (trading as 'eir').

**Date of Consultation Meeting**

18<sup>th</sup> May 2021.

**Date of Site Inspection**

26<sup>th</sup> April 2021.

**Inspector**

Daire McDevitt

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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

The site is located, with a stated area of c.0.78 hectares is located on the eastern side of the Dundrum Road to the north of Dundrum town centre. The area is characterised by a mix of commercial units, apartments and housing of varying heights/scale and design. A rubble stone wall forms the boundaries of the site with a number of mature trees along boundaries. The site is currently occupied by a telecommunications exchange operated by eir.

The site is accessed through a entrance off the access road serving Sommerville housing estate to the north. There is extensive surface parking on site which serves the current use. The site is bounded by Dundrum Road to the west, by the rear gardens of existing housing estates located to the north (Sommerville), and the south and the east (Larchfield).

## 3.0 Proposed Strategic Housing Development

Development parameters:

Site Area	0.78 hectares
Proposal	111 apartments in 2 no. courtyard blocks. 4 no. roof mounted antennae to Block (4.4m (H) x 429mm (w)) and c.13.6sq.m base satin/cabinet within a comms room at lower ground level of Block A. (combined area of the telecommunications structures is c.14sq.m)

Density	142uph
Height	6 storeys( 5 over lower ground floor) along the front of site to part 2 part 3 storey at the rear.
Dual Aspect	55% (62 units)
Ancillary residential accommodation	Lounge space (c.20sq.m) at upper ground level in Block A and lounge space (c.31.5 sq.m) at 2 <sup>nd</sup> floor level in Block B.
Open Space	<ul style="list-style-type: none"> <li>• 21.65% (c.1689.3sq.m). Communal courtyards &amp; roof terraces at 2<sup>nd</sup> floor level in each block.</li> <li>• Works to public realm along Dundrum Road (letter of consent from DLRCC)</li> </ul>
Parking	<ul style="list-style-type: none"> <li>• Existing use on site has 49 no. car parking spaces.</li> <li>• Proposed: 40 no. car spaces (undercroft ) under the front block and 2 no. surface parking spaces integrated within the landscaped area between the blocks.</li> <li>• 192 bicycle spaces at lower ground level within Block A and 26 no. short stay bicycle space at surface level.</li> <li>• 2 no. motorcycle spaces.</li> </ul>
Access	Via existing access point off Sommerville.
Part V	11 units ( 7 no. 1bed and 4 no. 2 bed in Block A)

#### Unit Mix:

Unit Type	No.	% of total
Studio	5	4.5%
1 bed	49	44.1%
2 bed	57	51.4%
Total	111	100%

## 4.0 Planning History

PA Reg. Ref. D09A/0614 Permission granted in 2010 for 30 dwellings.

## 5.0 Policy Context

### 5.1. National

## **Project Ireland 2040 - National Planning Framework**

National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

National Planning Objective 13: In urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

### **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 section 28 Ministerial Guidelines are:

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- Sustainable Urban Housing: Design Standards for New Apartments (2020)
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (2013) (updated May 2020)
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') (2009)
- Childcare Facilities – Guidelines for Planning Authorities

## **5.2 Regional**

## **Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019.**

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region.

The site is located within the 'Dublin Metropolitan Area'. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus in a number of large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion.

The following RPOs are of particular relevance:

- RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the 'Sustainable Residential Development in Urban Areas'. 'Sustainable Urban Housing; Design Standards for New Apartment' Guidelines, and Draft 'Urban Development and Building Heights Guidelines for Planning Authorities'.
- RPO 5.5: Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

### **5.3 Local**

The **Dun Laoghaire Rathdown County Development Plan 2016-2022** is the operative County Development Plan.

Of particular relevance:

- Land Use Zoning Objective 'A' which seeks to 'protect and or improve residential amenity'.
- Objective to 'preserve trees and woodlands' is indicated on the land use zoning maps.
- The R117 (Dundrum Road) is identified as a north-south Radial Cycle Route on the Supplementary DLR Cycle Network map (map T1)
- Dundrum is identified as a 'Metropolitan Consolidation Town' in the DLR settlement strategy.
- Core strategy has it designated as a major centre in the Metropolitan area.

There are a number of policies within the Development Plan relating to residential development.

Section 7.1.3.6 refers to childcare facilities.

Section 8.2.9.9 refers to telecommunications antennae and structures.

Section 8.2.3 sets out the development managements standards for residential developments. Section 8.2.3.3 refers to apartment developments

Section 16.10 refers to sustainable travel and transport.

Appendix 9 Building Height Strategy

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

It is stated by the prospective applicant that a pre-application consultation meeting took place with the Planning Authority on 23<sup>rd</sup> November 2021.

## **7.0 Forming of the Opinion**

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

### **7.2 Documentation submitted**

7.2.1 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.

The information inter alia included completed and signed Strategic Housing Development Section 5 Pre-Application Consultation Request Form, including letter dated 10th March 2021 from eir – Legal Department and accompanying plan no. P20-113D-RAU-205; Copies of letter dated 12 March 2021 to Dún Laoghaire-Rathdown County Council; Planning Report including Statements of Consistency & Material Contravention; Part V submission (Methodology of Calculation of Costs) and

letter from DLRCC Housing Department dated 4th March 2021 together with accompanying Drawing No's P20-113D-RAU-ZZ\_LG-DR-PV-400 and -401 (included in the pack of Architectural Drawings); Daylight, Sunlight and Overshadowing Report; Housing Quality Assessment (including schedules of accommodation); Urban Design Statement; Architectural Drawings; Landscaping Drawings and Landscape Design Report; Tree Survey report; Landscape and Visual Impact Assessment; Verified Views / CGIs, prepared by Redline Studios; Stage 1 Construction Management Plan; Engineering Services Report (including at Appendix B - Irish Water's Pre-connection Enquiry letter dated 18 August 2020); Traffic Management & Travel Plan Report; Flood Risk Assessment; DMURS Statement of Consistency; Engineering Drawings; Archaeological Desk Study; Ecological Impact Assessment; Appropriate Assessment Screening Report; Social Infrastructure Assessment.

7.2.2 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.

7.2.3 I have reviewed and considered all of the documents and drawings submitted.

### **7.3 Planning Authority Submission**

7.3.1 In compliance with section 6(4)(b) of the Act of 2016 the planning authority for the area in which the proposed development is located, Dun Laoghaire Rathdown 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 26<sup>th</sup> April 2021.

The report included planning history, issues relating to the proposal and issues that may be considered by An Bord Pleanála.

The issues of note raised relate to:

Residential Amenities:

- Concerns pertaining to overlooking of private amenity space associated with adjacent residential properties in Sommerville and Larchfield.



- Overlooking from roof garden in Block B.
- Need to demonstrate compliance with section 8.2.9.9 relating to telecommunications antennae and structures.
- Impact on trees needs to be addressed further, encroachment of Block B on root protection area of identified tree. Reference to objective ‘to preserve trees and woodlands.
- Provision of 3 bed units should be considered.
- No public open space is proposed. Therefore, provision of open space or payment of a contribution in lieu is required.
- Need to comply with apartment standards.
- Reference to downward and upward modifiers regarding proposed height. It is considered that the proposal benefits from 2 no. upward modifiers (a) size of site and b) urban design benefits in the form of presenting a strong urban edge).
- Telecommunications antennae due to slenderness are not deemed to result in a negative visual impact.
- General satisfied that no significant impacts will be caused on surrounding properties in terms of daylight/sunlight/overshadowing.
- Proposal is for 111 apartments. Parking at ratio of 0.37 is not considered acceptable.
- Proposal exceeds requirements for cycle parking standards
- Reference to Transportation Planning Report regarding works to improve the interface with Dundrum road and improve the quality of the public realm.
- Proposal should minimise impacts on bat population . Presence of 2 no. foxes is noted.
- Refer to Drainage Division report.
- Refer to Transportation Planning report.
- Refer to Housing Department report.

## 7.4 Other submissions

### Irish Water (16<sup>th</sup> April 2021)

Irish Water has assessed and has issued the applicant a Confirmation of Feasibility for connection(s) to the Irish Water network(s) subject to the following:

#### Water:

Diversion(s) of the infrastructure may be required subject to layout proposal of the development and separation distances being achieved. Therefore, the applicant must engage with Irish Waters Diversion Team in order to assess feasibility of any potential build over/diversion(s) which may be required ahead of the applicant progressing to SHD application. Any structures or works over or in close proximity to IW infrastructure that will inhibit access for maintenance or endanger structural or functional integrity of the infrastructure are not permitted. The applicant is also required to survey the site to determine the exact location of any pipes and trial investigations that may need to be carried out with the agreement of and in the presence of the Irish Water and/or Local Authority Inspector.

#### Wastewater:

Surface water from the proposed development must be discharged to a separate storm network.

#### Planning Observations:

All development is to be carried out in compliance with Irish Waters Standards Codes and Practices and that design layouts for the development proposal have been submitted to Irish Water and that a Statement of Design Acceptance has been issued to the applicant by Irish Water ahead of any SHD Application.

Irish Water does not permit build over of its assets and the separation distances as per Irish Waters Standards Codes and Practices which must be achieved. In order to ensure appropriate and access to existing infrastructure(s) the applicants are required to engage with Irish Water Diversions to agree to assess feasibility of any potential build over/diversion(s) which may be required, separation distances, appropriate wayleaves and or access ahead of any SHD application.

## 8.0 The Consultation Meeting

8.1 A Section 5 Consultation meeting took place online via Microsoft Teams on the 18<sup>th</sup> May 2021, 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.

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

1. Development Strategy, including inter alia layout and interface with Dundrum Road.
2. Telecommunications antennae and associated works/structure.
3. Residential Amenities (potential impact on adjoining properties and units/communal areas within the scheme)
4. Issues raised by Transportation Planning Section. With particular reference to set down area along site frontage)
5. Issues raised by Drainage Division.
6. Any Other Business.

In relation to **Development Strategy** ABP representatives sought further elaboration/discussion/consideration of overall layout and interface with adjoining residential properties and Dundrum Road.

In relation to **Telecommunications antennae and associated works/structure** ABP representatives sought further elaboration/discussion/consideration of the justification/rationale for the provision of antennae on the roof of Block A, compliance with County Development Plan requirements, proximity to residential properties.

In relation to **Residential Amenities** ABP representatives sought further elaboration/discussion/consideration of a) potential impact on adjoining properties, b) proposed units within the scheme and c) communal spaces within the scheme. Assessment in terms of access to daylight/sunlight, overshadowing and overlooking.

In relation to Issues raised by **Transportation Planning Section** ABP representatives sought further elaboration/discussion/consideration of a) set down area along Dundrum Road and b) justification/rationale for parking provision.

In relation to **Issues raised by Drainage Division** ABP representatives sought further elaboration/discussion/consideration of the requirements raised by the drainage division and lack of details/discrepancies in the documentation submitted.

In relation to **any other business** ABP representatives sought further elaboration/discussion/consideration of:

- The issue of tree removal was raised and the prospective applicant and Planning Authority expanded on their issues. ABP noted that objective relating to trees
- ABP highlighted that any material contraventions (if they arise) need to be addressed and advertised accordingly.
- ABP highlighted to the requirement to address all technical issues prior to lodging an application as no recourse to further information under SHD.
- Ensure all documentation correlates.

The prospective applicant and the planning authority were given the 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 309697' 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.

## **9.0 Conclusion and Recommendation**

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.

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.

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.

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.

## 10.0 Recommended Opinion

The Board refers to your request pursuant to section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Section 6(7)(a) of the Act provides that the Board shall form an opinion as to whether the documents submitted with the consultation request (i) constitute a reasonable basis for an application under section 4 of the Act, or (ii) require further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála is of the opinion that the documentation submitted would **constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála**.

Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that in

addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission arising from this notification:

1. Notwithstanding that the proposal constitutes a reasonable basis for an application demonstrate/justify the suitability of the proposed site to accommodate the proposed height, residential density and housing mix with regard to the provisions of the current Dun Laoghaire Rathdown Development Plan and relevant national and regional planning policy including the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual'); The 'Design Standards for New Apartments – Guidelines for Planning Authorities' (2020) and the 'Urban Development and Building Heights – Guidelines for Planning Authorities' (2018).
2. A housing quality assessment which provides the specific information regarding the proposed apartments required by the 2020 Guidelines on Design Standards for New Apartments. The assessment should also demonstrate how the proposed apartments comply with the various requirements of those guidelines, including its specific planning policy requirements. A building lifecycle report for the proposed apartments in accordance with section 6.13 of the guidelines should also be submitted.
3. A report that addresses issues of residential amenity (both existing residents of adjoining development and future occupants), specifically with regards to overlooking, access to day light/sunlight, 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. The assessment shall also include assessment of proposed units within the scheme and communal open space areas.
4. An Ecological Impact Assessment.

5. An Archaeological Impact Assessment.
6. A Tree survey, Trees Constraints Plan, Tree Restoration/Replacement Plan and Arboricultural Assessment.
7. a) Traffic Impact Assessment  
  
b) Justification/rationale for the extent of car parking proposed, having regard to the location of the site and its proximity to public transport services. This should also include a Carparking Strategy and Mobility Management Plan.  
  
c) Address issues raised in the Transportation Planning report included in the Planning Authority's Opinion dated the 26<sup>th</sup> April 2021.
8. Justification/rationale for approach to childcare provision.
9. Address issues raised in the Drainage Division report included in the Planning Authority's Opinion dated the 26<sup>th</sup> April 2021.
10. Address issues raised in the Irish Water Submission dated 16<sup>th</sup> April 2021.
11. A site layout plan indicating what areas, if any, are to be taken in charge by the planning authority
12. A draft Construction & Environmental Management Plan and a draft Waste Management Plan.
13. Where the prospective 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. Dun Laoghaire Rathdown 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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Dáire McDevitt

Planning Inspector,

24<sup>th</sup> May 2021