



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-310111-21

Strategic Housing Development	131 no. residential units (21 no. houses, 110 no. apartments), creche and associated site works.
Location	Stocking Lane, Ballyboden, Dublin 16.
Planning Authority	South Dublin County Council
Prospective Applicant	MacCabe Durney Barnes Limited
Date of Consultation Meeting	23 rd June 2021
Date of Site Inspection	20 th June 2021
Inspector	Una O'Neill

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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 subject site is located in the south Dublin suburb of Ballyboden, approximately 8km from the city centre, 2.3km south of Rathfarnham village and 400m north of the M50 motorway. The site is accessed from the west directly off Stocking Lane, which is a two-lane regional road (R115) that features a separate pedestrian and cycle path elevated above the road on its western side. It is adjoined to the south primarily by two-storey houses within the Prospect Manor estate, including Prospect Avenue and Prospect Heath. To the east of the site is housing within Springvale estate overlooking the Owendoher river. There are large detached houses set amongst expansive grounds situated along the northern boundary of the site, including no.4 Stocking Lane, which is within the application landholding, Coolamber, Rookwood House, which is included in the record of protected structures (RPS) under reference 327, and St. Winnows. Situated directly to the west of the site on the opposite side of Stocking Lane is Ballyboden water reservoir and waterworks, supplying water to the area and also featuring a protected structure (RPS ref. 333).
- 2.2. The site, 2.47 hectares in area, is currently under grass, available for use for agricultural purposes, and is served by a gated access on a residential laneway off Stocking Lane. The site has a 130m frontage onto Stocking Lane. There is a 9m drop in ground levels from the southwest corner to the northeast corner of the site, reflective of the fall in land in the immediate area, which also features a steep drop into the Owendoher river channel to the east of the site. It is stated that an underground waterworks overflow pipe runs centrally through the site and 5m below

ground level, leading from Ballyboden waterworks through to the Springvale housing estate and terminating at the Owendoher river. The boundaries of the site are defined by a mix of fences, stonewalls and block walls, each of which are supplemented by intermittent sections of mature trees, hedgerows and scrub.

3.0 Proposed Strategic Housing Development

3.1. The proposed strategic housing development would consist of the following elements:

- 131 residential units including:
 - 21 houses (11 no. 4-bed; 10 no. 5-bed) of up to two-storey plus roof storey.
 - 51 duplex apartment units (11 no. 1-bed; 23 no. 2-bed; 17 no. 3-bed) in seven blocks of up to three-storeys.
 - 59 apartment units (18 no. 1-bed; 38 no. 2-bed; 3 no. 3-bed) in three apartment blocks up to four-storeys.
- A creche of c. 128 sqm at the ground floor of Block L.
- A shop of c. 65 sqm at the ground floor of Block G, with associated storage.
- A total of 167 car parking spaces, of which:
 - 88 are at surface level and 79 in the basement under apartment Blocks F and G.
 - 5 are dedicated visitor parking spaces.
- A total of 288 cycle parking spaces and 5 no. motorcycle spaces.
- A new vehicular access onto Stocking Lane.
- An access to the Springvale estate to the east.
- New roads, footpaths and cycle paths and connections within the site.
- A new pedestrian crossing on Stocking Lane to the north west.
- The expansion and upgrade of the existing pedestrian crossing on Stocking Lane to the south west.

4.0 Policy Context

4.1. Project Ireland 2040 - National Planning Framework

- National Policy Objective 3(b): Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, with their existing built-up footprints.
- 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.
- National Policy Objective 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

4.2. 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 following policy documents and Section 28 Ministerial Guidelines are relevant:

- 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), as updated
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') (2009)
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme

4.3. Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031

The site lies within the Dublin Metropolitan Area, where it is intended to deliver sustainable growth through the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development land.

Key principles of the MASP include compact sustainable growth and accelerated housing delivery, integrated transport and land use, and the alignment of growth with enabling infrastructure.

A number of key Regional Policy Objective (RPOs) are noted as follows:

- RPO 4.3: Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

- RPO 5.3: Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.
- RPO 5.4 : Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing; Design Standards for New Apartments’ Guidelines, and ‘Urban Development and Building Heights Guidelines for Planning Authorities’.
- RPO 5.5 : Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.

4.4. Local Planning Policy

South Dublin County Development Plan 2016-2022

- Zoning: RES - ‘to protect and/or improve residential amenity’.
- A long-term roads objective has been assigned along Stocking Lane bounding the west of the site and Table 6.6 of the Plan states that this would involve an upgrade of the existing road to function as an enhanced pedestrian and cycle route and to exploit the tourism potential of this route.
- Rookwood House situated on grounds adjoining the north of the subject site is identified as a two-storey Georgian-style house in the Development Plan and included in the Record of Protected Structures (RPS) under reference 327.
- The reservoir to the adjacent Ballyboden waterworks is also included in the RPS under reference 333.
- Chapter 2 comprises policies and objectives addressing new housing developments.

Policy H6 Sustainable Communities It is the policy of the Council to support the development of sustainable communities and to ensure that new housing development is carried out in accordance with Government policy in relation to the development of housing and residential communities.

Policy H7 Urban Design in Residential Developments It is the policy of the Council to ensure that all new residential development within the County is of high quality design and complies with Government guidance on the design of sustainable residential development and residential streets including that prepared by the Minister under Section 28 of the Planning & Development Act 2000 (as amended).

Policies H8 Residential Densities It is the policy of the Council to promote higher residential densities at appropriate locations and to ensure that the density of new residential development is appropriate to its location and surrounding context.

H8 Objective 6: To apply the provisions contained in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009) relating to Outer Suburban locations, including a density range of 35-50 units per hectare, to greenfield sites that are zoned residential (RES or RES-N) and are not subject to a SDZ designation, a Local Area Plan and/or an approved plan, excluding lands within the M50 and lands on the edge or within the Small Towns/ Villages in the County

Policy H9 Residential Building Heights It is the policy of the Council to support varied building heights across residential and mixed use areas in South Dublin County.

H9 Objective 1: To encourage varied building heights in new residential developments to support compact urban form, sense of place, urban legibility and visual diversity.

H9 Objective 2: To ensure that higher buildings in established areas respect the surrounding context

H9 Objective 3: To ensure that new residential developments immediately adjoining existing one and two storey housing incorporate a gradual change in building heights with no significant marked increase in building height in close proximity to existing housing (see also Section 11.2.7 Building Height).

- Chapter 11 relates to Development Management Standards.

Section 11.2.7: The appropriate maximum or minimum height of any building will be determined by:

- The prevailing building height in the surrounding area.
- The proximity of existing housing - new residential development that adjoins existing one and/or two storey housing (backs or sides onto or faces) shall be no more than two storeys in height, unless a separation distance of 35 metres or greater is achieved.
- The formation of a cohesive streetscape pattern – including height and scale of the proposed development in relation to width of the street, or area of open space.
- The proximity of any Protected Structures, Architectural Conservation Areas and/or other sensitive development.

Policy H11 Residential Design and Layout It is the policy of the Council to promote a high quality of design and layout in new residential development and to ensure a high-quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development.

Policy TM7 – Transport and Mobility – policy of Council to take a balanced approach to provision of car parking with aim of meeting the needs of businesses and communities whilst promoting a transition towards more sustainable forms of transportation. Number of supporting objectives (TM7 Obj.1) which seek to carefully consider the number of parking spaces provided to service needs of new development.

5.0 Planning History

ABP-308763-21 – SHD Permission REFUSED for 131 no. residential units (21 no. houses, 110 no. apartments), creche and associated site works.

Reason: Having regard to the provisions of the South Dublin County Development Plan 2016-2022, specifically Housing (H) Policy 9 – Objective 3 requiring proposals to comply with Section 11.2.7 of the South Dublin County

Development Plan 2016- 2022, which states that new residential development that would adjoin existing one and/or two-storey housing, shall be no more than two storeys in height, unless a separation distance of 35m or greater is achieved, and to the form, height and layout of the proposed development, it is considered that the proposed development materially contravenes the Housing (H) Policy 9 – Objective 3 of the South Dublin County Development Plan 2016-2022.

Furthermore, the statutory requirements relating to public notices and the submission of a material contravention statement have not been complied with by the applicant. Accordingly, the Board is precluded from granting permission in circumstances where the application is in material contravention of the development plan and where the statutory requirements referred to above have not been complied with.

SD18A/0225 – Permission was REFUSED by the planning authority in August 2018 for the construction of 46 apartments in three blocks and 49 houses to be served by a new vehicular and pedestrian access off Stocking Lane and a pedestrian access off Springvale. The reasons for refusal of permission generally related to the proposed layout not providing for perimeter apartment blocks, the poor provision of public open space, the failure to provide a children’s play area, non-compliance with the Design Manual for Urban Roads and Streets (DMURS) regarding carriageway and pathway widths, insufficient detail regarding surface water management, the provision of six single-aspect north-facing apartments, various design flaws, the failure to meet minimum housing standards and an inadequate provision of tree planting.

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 16th April 2021. Issues raised are summarised hereunder:

- The reason for refusal and its procedural nature.

- The merits of ABP-308763-20 as noted in the inspector's report.
- Requirement to amend a house in Block D.
- Other minor amendments to the scheme required.
- Requirements to update supporting documentation, specifically the bats survey and lighting report.

7.0 Submissions Received

Irish Water: Connection to Irish Water networks is feasible.

8.0 Forming of the Opinion

8.1. 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 discussions which took place during the tripartite consultation meeting. I shall provide a brief detail on each of these elements hereunder.

Documentation Submitted by Prospective Applicant

- 8.2. 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.
- 8.3. 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. This statement has been submitted, as required.
- 8.4. The information submitted included the following: cover letter; application form; Statement of Consistency - Planning Report and Material Contravention; Concept Plan and Design Criteria; Housing Quality Assessment; Schedule of Accommodation; Engineering Drainage Report; Site Specific Flood Risk Assessment; Transport and Traffic Assessment; Arboricultural Impact Report;

Landscape Design Report; Tree Protection Strategy; Tree Survey Report; Outline Construction Management and Waste Management Plan; Ecological Impact Assessment; AA Screening Report; Part V proposals; and CGIs.

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

Planning Authority Submission

8.6. 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, South Dublin 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 28th May 2021.

8.7. South Dublin County Council's written opinion includes a description of the site and proposed development, planning history, record of pre planning meeting, policy considerations, departmental reports, and an assessment of the proposed development. A summary of the key issues is provided as follows:

- Building height acceptable and PA does not consider that it represents a Material Contravention of the South Dublin County Development Plan 2016 - 2022. It is recommended by the PA that the applicant submit a full justification for the proposed building height of Blocks K and J in proximity to existing houses at Stage 3 and detail in cross sections and CGIs the potential impact on the existing units
- PA request full details of impact of blocks adjacent to existing dwellings to be submitted at Stage 3, namely cross sections and CGIs.
- PA consider proposed density may not reflect the limited transport links that serve the site. PA recommends that the applicant would need to justify the proposed density in relation to surrounding transport links in terms of the frequency and capacity of those routes, and proposed routes under BusConnects. Such justification would need to include some consideration of access to retail and recreational amenities as well as employment centres
- PA Roads Department supports the need for a vehicular access to Springvale that would remain open at all times and that this access be taken in charge. Roads Department reiterates its position in relation to previous application ABP-308793-20.

- PA recommends Ecological reports should be updated prior to any grant of permission.
- PA raises concerns relating to the potential loss of older stone features on the site.
- PA notes 2-bed, 3-person units do not meet the relevant standard, which is the County Development Plan standard.
- PA requests shadow analysis or design changes required to House D1 at north-east of the site.
- PA recommends additional communal amenity space should be provided to serve Blocks L and M.
- PA recommends alterations required to ensure that units 33, 39, 45 and 51 are not essentially north-facing single aspect units.
- PA recommends changes to layout of bin stores and access to basement stores.
- PA notes that crèche unit may be undersized.

9.0 The Consultation Meeting

9.1. A Section 5 Consultation meeting took place via a Conference Call on the 23rd June 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.

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

1. Development Plan Policy and Height
2. Residential Amenity, including Sunlight Daylight Analysis
3. Transportation Issues, TTA, and Access
4. Ecology
5. Any Other Business

9.2.1. Development Plan Policy and Height

In relation to the Policy Context and Height, ABP representatives sought further elaboration/discussion/consideration in relation to:

- Policy and height as raised in recent refusal under application ABP-308763-21.
- Documentation should fully demonstrate how the previous reason for refusal has been addressed in relation to H9 Objective 3, including the form, height and layout, as raised in the Board Order for ABP-308763-21.
- Note proximity of duplexes to southern boundary.

9.2.2. **Residential Amenity including Sunlight Daylight Analysis**

- A Sunlight-daylight analysis was not submitted with the documentation. It would be advisable to undertake a Sunlight and Daylight analysis and this report should address the full extent of requirements of BRE209/BS2011, as referenced in the Building Height Guidelines and Apartment Guidelines.
- Clarification in relation to location of bins and operational waste management, as per PA's and previous Inspector's reports.
- Note concern raised in previous Inspector's Report (ABP-308763-21) in relation to solid wall treatment to balconies and boundary treatment/potential conservation issue.

9.2.3. **Transportation Issues, TTA, and Access**

- Access through Springvale is proposed as a pedestrian/cycle connection only. Applicant to consider setting out the transport rationale in relation to restricting this route for vehicles and consider extent of TTA assessment.

9.2.4. **Ecology**

- Applicant to consider further the time lapse since surveys were undertaken for the Ecological Impact Assessment, in accordance with CIEEM guidance.

9.2.5. **Any Other Business**

- No issues raised.

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 the proposed development constitutes a reasonable basis for an application, as set out in the recommended Opinion below.

Conclusion

- 10.4. 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.
- 10.5. 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.
- 10.6. 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.**
- 10.7. 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 would constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.
- 11.3. 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. A Sunlight/Daylight/Overshadowing analysis showing an acceptable level of residential amenity for future occupiers and existing residents, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties. This report should address the full extent of requirements of BRE209/BS2011, as applicable.
 2. Transportation assessment of access options between the site and Springvale to the east, including assessment of vehicular, cyclist and pedestrian access options.

3. A detailed schedule of accommodation which shall indicate compliance with relevant standards in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2020, including its specific planning policy requirements.
4. A building life cycle report shall be submitted in accordance with section 6.3 of the Sustainable Urban housing: Design Standards for New Apartments (2020). The report should have regard to the long term management and maintenance of the proposed development.
5. A landscaping plan including details of all proposals for the communal open space. The landscaping plan will clearly indicate the quantum of open space provision having regard to any circulation space.
6. Full details of boundary treatment.
7. A rationale for the proposed car parking provision should be prepared, to include details of car parking management, car share schemes and a mobility management plan.
8. Construction and Demolition Waste Management Plan.
9. Response to issues as raised in the Public Realm Planning Report, and Water Services Planning Report dated 13th May 2020 and detailed in Addendum C of the Planning Authority's Opinion.
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.
11. The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018, unless it is proposed to submit an EIAR at application stage.

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. South Dublin County 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.

Una O'Neill
Senior Planning Inspector

24th June 2021