



An  
Bord  
Pleanála

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

### **Inspector's Report on Recommended Opinion ABP-311243-21**

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<b>Strategic Housing Development</b>	101 no. residential units (41 no. houses, 60 no. apartments) and associated site works.
<b>Location</b>	Ringfort View, Balrothery, Balbriggan, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council
<b>Prospective Applicant</b>	James Murphy.
<b>Date of Consultation Meeting</b>	03 <sup>rd</sup> of November 2021.
<b>Date of Site Inspection</b>	07 <sup>th</sup> of October 2021.
<b>Inspector</b>	Karen Hamilton

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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 (c.6.03ha) is a large greenfield site, located to the north of Ringford View, on the boundary of Balrothery village, Co. Dublin. The site is currently accessed off the Old Coach Road, a small lane which radiates east from the built-up area of Balrothery. The Old Coach Road provides access to a number of one-off detached dwellings. The site slopes upwards from west to east and the Balbriggan Gold Club is located to the north.

## 3.0 Proposed Strategic Housing Development

- 3.1. The proposed development would comprise of the construction of 101 no. residential units (41 no. houses, 60 no. apartments) and associated site works.
- 3.2. The proposed vehicular and pedestrian access is from the south, Ringford View, and through greenfield lands, currently zoned for greenbelt.

### 3.3. Development Parameters

Parameters	Site details
Site area	c. 6.03ha
Units	101 no units (60 no. ground floor apartments and 41 no. houses)
Density	25.5 uph (Gross) 16.7 uph (Net)

Public Open Space	12% within the residential zoned lands  78 % within the entire site, including zoned open space
Parking	Car Parking 17 no. spaces  Bicycle Parking 84 no. spaces.

#### 4.0 Planning History

4.1. None of relevance

#### 5.0 Relevant Planning Policy

5.1. Fingal County Development Plan 2017-2023

5.2. The site is located on lands zoned for both:

- RA, Residential Area, where it is an objective *“to provide for new communities subject to the necessary social and physical infrastructure”*.
- OS, Open Space, where it is an objective *“to preserve and provide for open space and recreational amenities”*.

The proposed access road, radiates from the south across lands zoned:

- GB, Green Belt, (corresponding connection to the Ringford View) where it is an objective *“to protect and provide for a greenbelt”*.
- The GB zoning allows residential which is subject to the Rural Settlement Strategy.

#### Density

##### **Objective PM41**

Encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation, and amenities for either existing or future residents are not compromised.

#### Masterplan

## **Objective BALBRIGGAN 16**

Prepare and/or implement the following masterplan during the lifetime of this Plan:

- Balrothery East, (see Map Sheet 4, MP 4.G)

### Balrothery East Masterplan Objectives

The MP 4.G masterplan designation sets out some site-specific criteria for the Balrothery East lands.

1. Provision of a school
2. A density of 10 dwellings per hectare

### Local Objectives

The Following Local Objectives apply to the subject site:

- Objective Balrothery 7 – Prepare and implement the Balrothery East Masterplan MP 4.G

### School Sites

## **Objective PM78**

Reserve individual sites for primary and secondary schools in consultation with the Department of Education and Skills, based on current population using the most up to date statistical data, anticipated additional growth based on residentially zoned land, taking into consideration the timelines of planning and constructing new school places, and in line with access to public transport.

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

6.1. The report of the PA includes the minutes of a S247 meeting on the 24<sup>th</sup> of May 2021 as summarised below:

- The constraints of the zoning on the site.
- There is no mapped objective for a road at this location.
- The quantum of the development cannot be facilitated on the existing road network.
- No school is provided and no justification why not.

- Concern relating to the design and layout of the duplex units.
- SuDS treatment raised.
- Transport and parking provision on open space.

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

### 7.1. Architectural Design Statement & School Demand Assessment

A background to the site history and design concept is provided by the applicant. An assessment of the need for a school at this location is included. The assessment notes the drop in pupil numbers in the school between 2015 and 2020 (15 pupils) and the demand for additional school places from the proposed development (30-32 pupils).

### 7.2. Statement of Consistency

The applicant's Statement of Consistency notes the national, regional and local planning policies relevant to the development of the site.

### 7.3. Statement of Material Contravention

The applicant considers the proposed development materially contravenes the development plan Objective PM14 and Objective Balrothery 7 which requires the submission of a masterplan for areas designated in the development plan, where a masterplan has not been prepared.

Objective PM14 of the Fingal County Development Plan 2017 -2023 seeks to:

*'Prepare Masterplans for areas designated on Development Plan maps in co-operation with relevant stakeholders, and actively secure the implementation of these plans and the achievement of the specific objectives indicated.'*

Objective Balrothery 7 – Prepare and implement the Balrothery East Masterplan MP 4.G

Furthermore, the applicant considers a material contravention is justified having regard to National Planning Policy, Section 28 Guidance, the bus service, the school places generated by the proposal.

## 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, Fingal County Council submitted a note of the S.247 meeting, the planning authority opinion, along with interdepartmental reports and the relevant planning applications in the area. These were received by An Bord Pleanála on the 23<sup>rd</sup> of September 2021. The issues raised by Fingal County Council in their submission are summarised below:

### 8.1.1. Compliance with Zoning Objective/ Development Plan Objectives

#### Density& RA zoning

- A 10 uph density pertains to the RA zoning on the site, due to the sensitives on the site.
- The density at 26 uph does not accord with the requirement for 10uph.

#### School

- A school site is indicated in the development plan.
- The applicant has stated that the proposal only generates 31 school spaces, and a school site is not required.
- This school is required to cater for the larger area and as such the school assessment is not correct and the proposal does not meet the objective to provide a school at this location.

#### GB zoned lands

- The road access from the south is over green belt (GB) zoned lands.
- It is considered this represents a material contravention of the plan.

#### Open Space

- The proposal includes playing pitches etc. on the lands zoned open space which is acceptable.

#### Development Standards.

- The proposal complies with the development standards for apartments.
- The 10% public open space should be applied on RA lands in accordance with Objective DMS57A/DMS57B. It is not clear if the applicant can meet these standards.

### Density

- The applicant submits that the density is acceptable as the site is part of the satellite town of Balbriggan.
- It is considered that Balrothery is a small town/village, and the national guidelines allow densities of under 15-20 as long as the lower densities do not represent more than 20% of the total planned housing stock.
- The settlement strategy for Fingal includes Balrothery as a small town/village.
- The basis for the applicant not to provide a childcare facility is unclear.

### **8.1.2. Amenity Issues**

- The relationship between the ground floor of the apartment/duplex and the amenity area is of concern.
- The design and location of the community amenity area is unclear.
- The inclusion of a bin store to the front of the building will lead to poor quality urban design.
- No details of bicycle storage have been supplied.
- A 2.4 m high palisade fence along the access road is not appropriate.
- No public art has been provided.

### **8.1.3. Integration & Urban Design**

- The site is in a “highly sensitive landscape” and in a coastal character area.
- Objective NH39 requires visual impact assessments to be carried out for development in highly sensitive areas.



- No images have been supplied which show the images from within.
- The row of hedges is to be removed and the three storey units will be visible.
- The overall layout of the scheme is dominated by roads and surface parking.

#### 8.1.4. **Transportation Issues**

- There is a dominance of surface parking on the site and undercroft parking should be considered.
- A road layout has not been submitted, with no details on the levels, cross sections, footpath and/or pedestrian and cycle access.
- The sightline drawing indicates a footpath on one side of the road only, which is a concern.
- There are concerns in relation to the cycle and pedestrian activities north of the site, i.e., School Lane and Old Coach Road.
- The level of passive security along the cycle routes is unclear.
- The design and layout of the cycle routes is not in accordance with the national standards.
- EV charging should be a minimum of 10% of spaces.
- Taking in charge should be provided.
- A Road Safety Audit should be carried out at all levels.

#### 8.1.5. **Water & Drainage Issues**

Foul Water: Connection to the IW network is feasible without upgrades. The proposal is lacking in detail for connections including:

- Design detail of pipes and velocity.
- The provision of a 225mm ND sewer.

Surface Water: The surface water strategy is generally acceptable although the following is required:

- Geotechnical testing to confirm groundwater conditions.
- Deviation from the Qbar calculation should be Type 2 (30% runoff).

- Details of the pipes etc
- It is unacceptable to use the ditch as emergency discharge in an extreme event and the existing pipe work in Balrothery Court should be used.
- Works shall be in accordance with Fingal SuDs policy.

Water Supply: IW have confirmed works are acceptable within the need for an upgrade.

Flood risk: The site is all location within Flood Zone C.

#### 8.1.6. **Parks/open space issues:**

- Public Open Space: There should be a clear definition between public open space and semi-private open space. Car parking should be omitted to improve passive surveillance on the open space.
- Play provision: There is a requirement for 404m<sup>2</sup> for a range of age groups. Further details are required for the courts in the open space.
- SuDS: The areas of SuDS in the open space should be detailed and shown on a landscape plan.
- Riparian Corridor: Clarity on the treatment of the riparian corridor, prevention of anti-social behaviour, hedge clipping etc.
- Boundary Treatment: Further details are required including along open space.
- Cycle Paths: Further details are required.

#### 8.1.7. **Impact on Natura 2000 Sites & EIA Screening**

- ABP is the competent authority.

#### 8.1.8. **Archaeology**

- The western part of the site is within a Zone of Archaeological Notification.
- There is a protected structure within an adjoining Housing Estate to the west (a standing stone).
- An Archaeological report noted no features identified during test trenching which is acceptable.

## 8.2. Interdepartmental Reports

Transport Planning Section: Additional information required.

Water Services Section: Additional Information required.

Parks & Green Infrastructure Section: Additional Information required.

Community Archaeologist: No objection to proposal.

Arts Officer: No objection subject to a condition relating to Artwork.

## 9.0 Irish Water

9.1. A submission from Irish Water (IW) on the 28th of September 2021 confirmed that a Confirmation of Feasibility for 101 no residential units subject to the following:

9.2. In relation to Wastewater:

The applicant will be required to demonstrate the following in advance of submitting a connection application.

- Evidence of permission from the 3rd party to connect
- Capacity and condition report of the 3rd party infrastructure
- Evidence that 3rd party infrastructure is to Irish Water Standards & Codes of Practice
- Evidence that the third-party infrastructure is of sufficient capacity to take the connection and the additional demand.
- Evidence that the third-party infrastructure is of sufficient integrity to take the connection and the additional discharge

## 10.0 The Consultation Meeting

10.1. A Section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 03rd of November 2021, commencing at 10:00am, via Microsoft Teams.

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 as detailed below:

1. Compliance with the Fingal County Development Plan, inter alia, provision of the school and master planning of the site.
2. Development Strategy, inter alia, density, communal amenity areas, design and layout, open space
3. Traffic & Transport
4. Impact on Visual Impact
5. Impact on Residential Amenity
6. Any Other Matters.

10.2. In relation to the **Compliance with the Fingal County Development Plan**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The development objective for the site (MP 4.G) and the absence of a masterplan for the development of the site.
- The development objective for a proposed school site, the information contained in the school assessment and the need to ensure the school can accommodate the wider Balrothery catchment area.
- The proposed access through greenbelt zoned lands and compliance with the strategic housing (SHD) legislation.
- The proposed density and the need to comply with national legislation.

10.3. In relation to the **Development Strategy**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The open space designation and the need to ensure the public open space is functional and accessible.
- Clarification on the designation of communal and public open space areas.
- The design of the open space areas along the riparian corridor.
- The overall design and layout of the units, the location separate from parking and the integration of communal amenity areas.
- The design of the duplex units and the inclusion of external staircases.

10.4. In relation to the **Traffic & Transport**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The access from Ringfort View, through the greenbelt zoned lands.
- The prioritisation of pedestrian and cycle activities through the site, the design of the connections from the Ringfort Road, through the site, north to the Old Coach Road.
- The quantum and location of carparking on the site.
- The design of the internal access road.

10.5. In relation to the **Impact on Visual Amenity**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The visual assessment submitted and the absence of close-range photomontage visuals.
- The need for an appropriate design approach, having regard to the sensitive location.

10.6. In relation to the **Impact on Residential Amenity**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- Justification for the absence of a school at this location.
- The need for a detailed childcare audit.
- The daylight/sunlight levels and justification for levels which are below the recommended BRE minimum standards.
- The location of bin and bicycle storage facilities.

10.7. In relation to the **Any Other Matters**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- Part V proposal.
- Third party consents necessary for the proposed development.
- Tree retention and new planting proposed.
- The delivery of SuDS on the site and the proposals within the green spaces.

## 11.0 Assessment

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 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.

### Conclusion

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.

## 12.0 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 requires **further consideration and amendment to constitute a reasonable basis** for an application for strategic housing development to An Bord Pleanála

## 1. Principle of Development

Further consideration/justification of the documents as they relate to the planned development strategy for Balrothery, the absence of a masterplan and compliance with Objective PM14 of the Fingal County Development Plan 2017 -2023. The applicant shall ensure the further consideration/justification includes the following detailed information:

- Justification for the non-provision of the school, having regard to the requirement for existing capacity and future need for school places within the entire Balrothery Village catchment area.
- The proposed vehicular access across lands zoned as Greenbelt (GB) and compliance Section 3 (a) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## 2. Design and Layout

Further consideration and/or justification of documents as they relate to the proposed strategy for the development of the site in respect of the design and layout of proposed development necessary to comply with the 12 criteria set out in the Urban Design Manual which accompanies the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (2009). The further consideration/ justification should address the matters of the configuration, the layout and the architectural approach with particular emphasis on the carparking strategy and open space design should be given further consideration. Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

Pursuant to article 285(5)(b)(i) and (ii) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that the **following specific information** should be submitted with any application for permission:

1. Clarification in the documents with regards to the proposed wastewater services. In particular, the consideration/clarification should address the contents of the submission from Irish Water (dated 28th of September 2021) concerning the need to for all works and 3<sup>rd</sup> party consents necessary to

facilitate the connection of the development to wastewater infrastructure. Clarity is required at application stage as to what upgrade works are required, who is to deliver these works, when are the works to be delivered relative to the completion of the proposed housing development and whether such upgrade works are to be the subject of separate consent processes.

2. A site layout plan indicating what areas are being proposed to be taken in charge by the local authority. In that regard, all routes of connectivity (pedestrian, cycle and vehicular) to adjoining lands, where proposed, should be indicated going right up to the shared boundary with adjoining lands.
3. A detailed site layout plan clearly illustrating the proposed development and the land use zoning for the site from the statutory development plan.
4. Additional GCIs illustrating the short-range context and the potential impact on those proposed properties along the Old Coach Road.
5. A response to the Traffic and Transport issues raised in the Fingal County Council submission in relation to, inter alia, parking layout, road markings, surface treatment, design of basement parking and bicycle parking, road safety audit.
6. A response to the Drainage Department issues raised in the Fingal County Council submission in relation to the delivery of SuDS on the site.
7. In accordance with section 5(5)(b) of the Act of 2016, as amended, any application made on foot of this opinion should be accompanied by a statement that in the prospective applicant's opinion the proposal is consistent with the relevant objectives of the development plan for the area. Such statement should have regard to the development plan or local area plan in place or, likely to be in place, at the date of the decision of the Board in respect of any application for permission under section 4 of the Act.
8. 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.



9. 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.
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. The notice and statement should clearly indicate which Planning Authority statutory plan it is proposed to materially contravene.

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. The relevant 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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Karen Hamilton  
Senior Planning Inspector

06<sup>th</sup> of December 2021