



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-311843-21

Strategic Housing Development

Preservation of Auburn House (a Protected Structure) and stables as 1 no. residential dwelling, conversion of stables to provide storage space for Auburn House, construction of 368 no. residential units (87 no. houses, 281 no. apartments), creche and associated site works.

Location

Lands at Auburn House (Protected Structure), Little Auburn and Streamstown, Off Malahide Road and Carey's Lane, Back Road, and Kinsealy Lane, Malahide, Co. Dublin.

Planning Authority

Fingal County Council

Prospective Applicant

Kinwest Ltd

Date of Consultation Meeting

25th of January 2022.

Date of Site Inspection

07th of January 2022.

Inspector

Karen Hamilton

Contents

1.0 Introduction	4
2.0 Site Location and Description	4
3.0 Proposed Strategic Housing Development	5
4.0 Planning History.....	6
5.0 Relevant Planning Policy	7
6.0 Section 247 Consultation(s) with Planning Authority	8
7.0 Prospective Applicant’s Case	9
8.0 Planning Authority Submission	10
9.0 The Consultation Meeting.....	13
10.0 Assessment.....	15
11.0 Recommended Opinion	16

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 description, as per the Inspector's Report for ABP 309907-21 is noted and stated below:
- 2.2. The subject site is located approximately 2.4km southwest of Malahide Village. It is bounded by the R107 / Dublin Road / Malahide Road to the east, Abbington residential estate to the north and north-west and Claireville Lodge estate on Careys Lane to the west. The grounds of Malahide Castle are situated to the east of the R107 / Dublin Road / Malahide Road.
- 2.3. The subject site itself, comprises the grounds of Auburn House a Protected Structure (RPS No. 448) and include a separate detached dwelling and garden to the east known as 'Little Auburn'. The original curtilage of Auburn House has been subdivided over time and three separate dwellings within the original grounds share access over the main entrance driveway but are excluded from the site. There are currently two access points to the subject site from the R107 two Auburn House and Little Auburn respectively. The existing access to Auburn House is adjacent to the junction with Back Road to the east. A third entrance is available from Careys Lane to the west.
- 2.4. Auburn House is identified in the Record of Protected Structures (No.448) as a Late 18th or early 19th century house, outbuildings and walled garden. The house faces east across an open paddock / 'frontfield', with a woodland area surrounding it to the south, west and north. The grounds in general contain areas with mature trees,

groupings and hedgerow. The grounds are traversed by a small stream flowing southwest and south towards the R107.

3.0 Proposed Strategic Housing Development

3.1. The proposed development would comprise of:

- the preservation and protection of the existing Protected Structure of Auburn House and its stables as 1 no. residential dwelling.
- the conversion of the existing stables of Auburn House to provide for storage space for the main Auburn House and the construction of 368 no. new residential dwelling units (comprising 87 no. houses, 238 no. apartments & 43 no. duplex units) for an overall total of 369 no. residential units.

3.2. Vehicular access to the proposed development is to be:

- via a new entrance at the R107 Malahide Road/Dublin Road entrance,
- with the existing entrance to Auburn House acting as a pedestrian/cyclist entrance and access to existing properties outside the application site,
- there will be a secondary entrance comprising modifications of the existing vehicular entrance off Carey’s Lane to the southwest of the development,
- the closure of the existing vehicular entrance to Little Auburn,

3.3. Development Parameters

Parameter	Description
Area	13.2ha (net 9.60 ha)
Units	368 units 87 Houses and 281 apartments
Density	38 uph
Heights	2-5 storeys
Car parking space	498 parking spaces
Cycle parking spaces	684

Childcare Facility	185m ²
Communal Open Space	6,175m ²
Public Open Space	2.86ha (21.5%)

4.0 Planning History

ABP Ref. 309907-21

Permission refused (15th of July 2021) to Kinwest Ltd for a Strategic Housing Development consisting of the demolition of 'Little Auburn' and associated outbuildings, construction of 411 no. residential units (102 no. houses including preservation of Auburn House and 309 no. apartments), childcare facilities and all other associated site works. The three reasons for refusal are summarised below:

1. The impact on the architectural conservation of the site and vicinity.
 - the new entrance along Dublin Road, which detracts from the historical entrance
 - the removal of the trees to accommodate the entrance,
 - the encroachment onto the attendant grounds of the protected structure,
 - the removal of the trees around Auburn House and the impact of Block 7
 - the height of the blocks and inappropriate scaling beside a protected structure.
2. The removal of the trees and the impact on the sylvan character of the site. The proposal would be contrary to objectives of the development plan which requires the protection of hedgerows, trees and overall impact on the woodlands and canopy.
3. The absence of any comprehensive assessment of the daylight and sunlight within the proposed development, compliance with the BRE guidance and section 3.2 of the Building Height Guidance.

Reg. Ref. F18A/0445

Fingal County Council granted planning permission (January 2019) to Mary McEvaddy for the conversion of service entrance off main driveway to serve as new eastern entrance to dwelling house, erection of new gate posts and automated gates, entrance forecourt, new entrance canopy to east elevation, alteration to existing entrance doorway on west elevation and associated external works at "Belmont" part of courtyard housing (formerly outhouses) in the grounds of Auburn House (a protected structure), Malahide, Co Dublin

5.0 Relevant Planning Policy

5.1. Fingal County Development Plan 2017-2023

The site is zoned as 'RA, Residential, where it is an objective to *"Provide for new residential communities subject to the provision of the necessary social and physical infrastructure"*.

Vision: Ensure the provision of high quality new residential environments with good layout and design, adequate public transport and cycle links and within walking distance of community facilities. Provide an appropriate mix of house sizes, types and tenures to meet household needs and to promote balanced communities

Masterplan

The site contains a local objective: Objective PM 14 Masterplan

- The site forms part of lands for Streamstown which is subject to a masterplan

The main elements of the plan should include:

- Facilitate low density development reflective of the character of the area.
- Protect and preserve trees, woodlands and hedgerows.
- Preserve the tree lined approach to Malahide along the Dublin Road.
- Facilitate high quality sustainable development that protects and enhances the sensitive historic and natural setting of Auburn House and integrates new development with the conservation and preservation of the Protected Structure, its curtilage and protected trees.

- Retain visual corridors to/from Auburn House through the establishment of a visual buffer to the east of Auburn House.
- The area for development north of Auburn House is a sensitive development zone, where a max ridge height of 6m should be applied.
- Provide for a pedestrian / cycle route along the Auburn House Avenue to Malahide Road.
- Ensure pedestrian connectivity between Auburn House Avenue and Abington / Gaybrook / Castleheath.
- The lands will be the subject of a detailed flood risk assessment.

Protected Structure

- Auburn House is a Protected Structure (RPS448).
- Objectives CH20, CH21, CH25 and CH46 refer to the protection of protected structures and their setting and curtilage, and their designed landscapes in any development proposal.

6.0 Section 247 Consultation(s) with Planning Authority

- 6.1. A number of S247 meetings were held in relation to the previous application on the site (ABP 309907-21). A further S247 meeting was held on the 24th of September 2021 via Microsoft teams and a number of issues were raised.
- 6.2. The applicant's submission states that the design was amended following this S247 meeting to include the removal of a building in the Walled Garden. The access options and design of Block 4 were also discussed.
- 6.3. The PA submission includes a copy of the minutes from the S247 meeting, those issues discussed are summarised below:
 - Very little detail is provided in relation to the proposed entrance.
 - There remains concern over the design of Block 4
 - More details required in relation to the pump station.
 - The curtilage/amenity space for Auburn house needs to be determined.

- The replacement of U category trees is expected.
- Addition information with regard the tree planting and landscaping.

7.0 **Prospective Applicant's Case**

7.1. Statement of Consistency

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

7.2. Statement of Material Contravention

The applicant considers the proposal material contravenes Objective PM 14 of the development plan, stated below, as no Masterplan has been prepared or adopted for the Streamstown Lands by Fingal County Council.

'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.'

The applicant considers the proposal is justified as the overall masterplan areas has already been built on and the making of an application on the site can constitute appropriate for the development of the site.

7.3. Previous Reason for refusal (ABP 309907-21)

The Planning Statement details the alterations included to address the previous reason. Proposed alterations are summarised below:

- The removal of Block 7 from the woodland.
- Moving the location of apartment Block 3 in a westerly direction to preserve the historic tree/hedgerow.
- The reduction in height of apartment blocks 1-3 by a single storey and subsequent removal of the cladding material.
- Removal and reconfiguration of housing clusters in the front field, which protect the setting of Auburn House but also retain additional tree stands and hedgerows.

- The removal of the previous ‘rain garden’ attenuation areas in the front field which preserves an existing historic hedgerow.
- Improved and updated Woodland Management Plan (prepared by The Tree File).
- The removal of the previously proposed community use building from the Walled Garden.
- The curtilage of Auburn House has been extended to provide a more appropriate amenity to the protected structure and future residents.

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 29th of November 2021. The issues raised by Fingal County Council in their submission are summarised below:

8.2. Planning Assessment

8.2.1. Principle of development

- The density at 38 uph is considered acceptable.
- The absence of a masterplan and the applicant’s statement of material contravention are acknowledged.

8.2.2. Integration, Quality of Design and Conservation

- A high standard of landscape design etc. is required.
- The current proposal has made some attempts to incorporate features of the historic development into the layout.
- The onus is on the Board to establish if the previous reasons for refusal are overcome.

- Revise the layout of the crèche drop off/ pumping station to allow a sufficient cluster of trees to create a dominant landscaped character.
- Block 4 recessed 4th storey should have a deep-set back.
- Block 5 should be reduced in height with the top floor omitted.
- Block 7 and the distance from the walled garden.

8.2.3. **Built Heritage**

- Still has some concerns over the impact the proposal would have in terms of its impact upon the historic landscape in which it is proposed to be located.
- See Conservation officer notes below.

8.3. Interdepartmental Reports

8.3.1. **Transportation Department:**

- A level of visitor parking would be required to prevent on-street parking.
- The parking at the drop-off location for the crèche require rearrangement along with the provision of signage for parking.
- Mobility impaired parking in the apartments is poorly located/ the swept path analysis for parking in blocks 1-3 assessed.
- Parking for the houses should be of a sufficient standard.
- The road width of road section 4-4 is not large enough and the footpath is sub-standard
- There are no dedicated cycle routes, which should be addressed.
- The homezones/ shared surface is required to be a high standard. The number of units served by a shared surface in Blocks 6 & 8 is excessive.
- EV charging points.
- A Traffic & Transport Assessment is not included in the pre planning documentation although provided in the previous application. The previous concerns, i.e., the lack of assessment of priority junctions is still raised as a concern. An upgrade of Streamstown Lane may be required.
- Taking in charge map.

8.3.2. Parks & Green Infrastructure Section

- The location of the dwellings along the boundary will have a negative impact on the ecological and amenity function.
- Concern in relation to the impact of the proposed dwellings between the woodlands and adjoining Abington.
- The proposed SUDS detention basin exceeds 10% of the public open space contrary to DMS73.
- Trees with poor condition should be replaced. Those of poor condition and high ecological value should have a risk assessment.
- Details of ground level changes etc. should be provided as scaled drawings.
- Play equipment should be clustered in more open areas.
- Drainage infrastructure to be detailed.
- Planting list to be included.
- Clarity on the proposed control access to the Walled Garden.
- The recommendation of the ecology survey should be accessed for practical implementation.
- The impact on watercourses should be accessed.

8.3.3. Water Services

- The proposal for water/ wastewater and surface water is generally acceptable.
- The proposed development is reliant on new wastewater infrastructure (Kinsealy/ Castleway pumping station).
- The new wastewater pumping station proposed near the entrance off the Dublin Road requires a buffer zone of 35-50m. A separate access may be required to allow unimpeded safe access to the pump station.
- The proposal would benefit from expanding the storage of surface water in the green roofs and better use of road swales etc.
- Underground attenuation should be avoided near apartments.
- The roadside ditches should be integrated into the Site-Specific Flood Risk Assessment (SSFRA). These should be maintained regularly.

8.3.4. **Conservation Officer Section**

- A number of options have now been included for the access into the site. Option 2 (widen existing Auburn House entrance for both cars, pedestrians etc) would require more design consideration. This would require the relocation of the historic gates and jostle stones.
- The positioning of Apartments No 4 & 5 on the approach road to Auburn House will have a negative impact and a tree lined avenue and should be retained.
- Details of the active Woodland Management.
- The Conservation Report needs to include a protection plan for the protected structure, detailed drawings of the historic house and outbuildings, and any works for a new boundary to Auburn House and Stable buildings.
- The courtyard blocks should be 2 storeys rather than 3 storey.
- Further set back of Block 7 is required from the walled garden.

8.3.5. **Environment Section**

- No objection subject to condition for the protection of streams.

8.3.6. **Housing Section**

- No objection subject to Part V compliance.

8.3.7. **Community, Culture and Arts Section**

- No objection subject to the provision of a piece of art/ sculpture.

9.0 **The Consultation Meeting**

9.1. A Section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 25th of January 2022, commencing at 14:00, 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. Impact on built heritage, *inter alia*, design and layout,
2. Daylight & Sunlight Assessment
3. Drainage, *inter alia*, SUDS and attenuation
4. Ecology, *inter alia*, entrance and tree removal
5. Any Other Business

9.2. In relation to the **Impact on the Built Heritage** An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The proposed development, the location beside a protected structure (Auburn House) and the need to ensure the submitted CGIs/ Visual Impact assessment which clearly highlights the impact of the proposal on Auburn House.
- The design, layout and overall scale and mass of proposed Blocks 4 and 5 and the impact on the character and setting of Auburn House.
- The location of the pumping station at the entrance of the site, the infrastructure required by Irish Water and the need for sensitive design and landscaping around the pumping station.

9.3. In relation to the **Daylight & Sunlight Assessment**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The previous reason for refusal (ABP 309907-21) and the need for a comprehensive daylight/sunlight analysis.
- The information submitted in the daylight/sunlight analysis the absence of all corresponding maps.

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

- The location of the attenuation areas, the use of the main open space area for SuDS and the need to ensure all designated open space areas are useable and functional.

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

- The removal of trees along the Malahide Road to accommodate a new entrance into the site, the previous reason for refusal ABP 309907-21 (which referenced this entrance) and the need for additional justification for the removal of these trees.

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

- The potential location of site notices and any subsequent application submitted.
- The potential for additional retail/community facilities within the site, having regard to the availability of other services in the vicinity of the site.

10.0 **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: constitutes a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

11.0 Recommended Opinion

11.1. 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.

1. Notwithstanding that the proposal constitutes a reasonable basis for an application the prospective applicant is advised to address the following in the documents submitted:
 - a) Provide further justification in relation to Boards previous reason for refusal (ABP Ref. 309907-21). In this regard, the chosen location for the new entrance along the Malahide Road (R107), shall include a full assessment of all tree removal in conjunction with additional CGIs/visualisations as further justification for the overall design and layout, having regard to the impact on the sylvian character of the surrounding area.
 - b) An updated Sunlight/Daylight/Overshadowing analysis including all relevant plans/ documentation showing an acceptable level of residential amenity for 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. A Community Audit of the surrounding area.

3. A Taking in Charge Map.
4. Submission of an updated landscaping plan including the treatment of existing trees and woodland on the site, to include maps and drawings providing clarity regarding:
 - Trees to be retained and / or removed and the condition of such trees.
 - The rationale for removal – i.e. whether due to condition or development impacts.
 - The nature, extent and phasing of planting to be provided across the site.A detailed woodland management plan should be provided which should identify specific measure and actions to ensure the long-term maintenance and protection of trees and woodland on the site. Responsibility for implementation of such plan should also be identified.
5. 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.

11.2. 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. Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media
2. Heritage Council
3. An Taisce
4. An Comhairle Ealaíon
5. Fáilte Ireland
6. Irish Aviation Authority
7. Irish Water

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.

Karen Hamilton
Senior Planning Inspector

02nd of February 2022