



An
Bord
Pleanála

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

**Inspector's Report on
Recommended Opinion
ABP-311984-21**

Strategic Housing Development	Demolition of existing structures, construction of 132 no. apartments and associated site works.
Location	Site at the rear of 41-49 Terenure Road East, Rathgar, Co. Dublin.
Planning Authority	Dublin City Council
Prospective Applicant	Berryton Limited
Date of Consultation Meeting	15/03/2022
Date of Site Inspection	07/03/2022
Inspector	Conor McGrath

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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 comprises a stated area of 0.97ha, located to the rear of no.'s 41 – 49 Terenure Road East. This backland site is currently in use as a car park, with access via a public mews laneway accessed from between no.'s 57 and 59 Terenure Road East. This cul-de-sac lane provides access to the rear of no.'s 40 – 57 as well as the subject site. The site has a history of use as part of a car rental business with the associated maintenance activities etc. on site

To the west the site is bounded by two-storey houses in Cremorne, and by more established two-storey terraced houses on Victoria Road to the south. To the east the site is bounded by the grounds of Rathgar Tennis Club within Herzog Park, which is accessed from Orwell Mews, and by the rear curtilage of Stratford College a secondary level college on Zion Road. Rathgar Park is a mews lane to the east of the site which is accessed from Orwell Mews. A physical connection with the lane serving the subject site is currently blocked by a wall and private space at the western of Rathgar Park. To the south of Rathgar Park, the northern edge of Herzog Park / tennis club includes mature trees and vegetation up to the boundary with the subject site. There are also mature trees along the eastern site boundary.

3.0 Proposed Strategic Housing Development

The proposed development is described as comprising:

- The demolition of existing structures on the site.

- Construction of 132 No. Build-to-Sell apartments in 3 No. blocks of up to 6-storeys over basement level, comprising 56 no. 1 bed, 76 no. 2 bed units.
- A ground floor tenant amenity space (120 sq.m) and ESB sub-station and switch room in Building 2.
- Communal open space of 1,867 sq.m and public open space of 740 sq.m.
- 88 no. car parking spaces and 5 motorcycle spaces at basement and ground level.
- 274 no. bicycle parking spaces (208 no. resident spaces and 66 visitor spaces).
- New 6m wide access road from Rathgar Park to the northeast and associated works to the northern portion of Herzog Park.
- Foul and surface water drainage connections to networks in Terenure Road East and potable water connection to the public watermain in Rathgar Park.
- Ancillary site development works including plant, waste storage, public and communal amenity space, landscaping, boundary treatment, lighting, green roofs and PV Panels.

Key development parameters include:

Site Area	9712.5m ² gross (within Application Boundary) 7254.7m ² Net (within Legal Ownership Boundary)
Proposed units	132 No. as follows: 56 No. 1 bed (42%) 76 No. 2 bed (58%) - incl. 2 no. 3-person apartments
Density	181 units per ha net
Plot Ratio	1.54:1
Site Coverage	31%
Building Height	4 – 6 storeys (maximum 19.8m)
Dual Aspect	76 apartments / 58%
Open Space	Communal 1,867.7m ² (812m ² required) Public 740m ² (10%)
Parking	88 no. spaces (including 2 car club spaces) (0.66 / unit) 5 Motorcycle Spaces
Cycle Parking	274 (as per apartment guidelines)
Residential Amenity	120m ² (Lounge, communal kitchen + dining)

4.0 Relevant Planning History

There does not appear to be recent relevant planning history on this or adjoining lands. The prospective applicant's documentation refers to the following cases on Orwell Road.

PA Ref 2186/09 ABP ref. PL29S.234927: 10-year permission granted in November 2010 at Marianella 75, Orwell Road, for demolition of existing buildings and construction of 12 no. houses; 263 no. apartments in 6 no. blocks ranging in height from 4 to 7 storeys (23.25m) over basement level. This permission was the subject of a number of amending applications including 4001/16 (PL29S.247868), 2902/16, 3103/17, 3443/17, 3326/16, 3961/17, 3784/18, 4094/16.

PA Ref. 2128/17 Planning granted to the north of the permitted development lands at Marianella, comprising construction of 24 no. residential dwellings.

ABP Ref. ABP-303133-18: Permission granted for a Strategic housing Development on the Former Monastery Lands at Marianella, Orwell Road, for Construction of 107 no. apartments, residential amenity and associated works in 2 no. blocks of 5 and 6-storeys.

5.0 Section 247 Consultation(s) with Planning Authority

Application documentation refers to pre-planning consultation meetings with the planning authority on 28/04/2021 and 16/09/2021. The main items discussed are reported as including the following:

- Constraints on existing access arrangements and the impact of increased movements along the lane.
- Alternative access options.
- Potential for access to adjoining properties.
- Design and layout of open space.
- Parking.
- Dual aspect provision.
- Relationship with adjoining residential properties.
- Height, design and orientation of blocks.
- Daylight and overshadowing.

- Visual impact.
- Function of internal amenity space.
- Provision of childcare facilities.
- Improved permeability in the area.

6.0 Planning Policy

6.1. National and Regional Planning Policy

6.1.1. Project Ireland 2040 - National Planning Framework

National Strategic Outcome 1 is identified as Compact Growth, recognising the need to deliver a greater proportion of residential development within existing built-up areas. Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

Objective 3A seeks the delivery of at least 40% of all new housing in existing built-up areas of cities, towns and villages on infill and/or brownfield sites.

Objective 11 favours development within existing cities, towns and villages, subject to appropriate planning standards and achieving targeted growth

Objective 13 provides that, in urban areas, planning and related standards will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth.

Objectives of Chapter 6, 'People Homes and Communities', including Objective 27, seeks to 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.

Objective 33 seeks to prioritise the new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

Objective 35 seeks to increase densities in settlements, through a range of measures including reduced vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

6.1.2. Rebuilding Ireland – Action Plan for Housing and Homelessness 2016

The overarching aim of the Plan is to increase the delivery of housing across all tenures, to help individuals and families meet their housing needs. A target to double the number of residential dwellings delivered annually and to provide 47,000 social housing units up to 2021 is identified. The plan identified five pillars for action.

Pillar 2 - Accelerate Social Housing

Pillar 3: Build More Homes, seeks to increase the output of private housing to meet demand at affordable prices. The key action is to double housing output over the Plan period.

6.1.3. Housing for All - A New Housing Plan for Ireland (Sept 2021)

The stated aim is to provide access to a home to purchase or rent at an affordable price, built to a high standard and in the right place, offering a high quality of life. The plan identifies the need for construction of an average of 33,000 homes per annum nationally until 2030 to meet the targets outlined in the National Planning Framework. Four overarching objectives are identified:

- Supporting Homeownership and Increasing Affordability.
- Eradicating Homelessness, Increasing Social Housing Delivery and Supporting Social Inclusion.
- Increasing New Housing Supply; and
- Addressing Vacancy and Efficient Use of Existing Stock.

The Pathway to Increasing New Housing Supply includes a focus on the adequate supply of serviced zoned lands to meet housing need, at required densities.

6.1.4. Regional Spatial and Economic Strategy for the Eastern and Midland Region (2019)

The Strategy supports the implementation of Project Ireland 2040 and the National Planning Framework (NPF).

RPO 3.2 promotes compact urban growth and targets at least 50% of all new homes to be built, to be within or contiguous to the existing built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

RPO 3.3 notes that Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites and provide for increased densities as set out in the national policy.

Regional Policy Objective 4.3. supports the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built-up area and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport.

The site lies within the Dublin Metropolitan Area (DMA). The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas to ensure a steady supply of serviced development lands to support sustainable growth.

Section 5.3 identifies guiding principles for development of the MASP area including:

Compact sustainable growth and accelerated housing delivery – To promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate housing supply in order to achieve higher densities in urban built up areas, supported by improved services and public transport.

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’.

6.2. **S.28 Ministerial Guidelines**

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submission of the planning authority and other authorities, I am of the opinion that the most directly relevant section 28 Ministerial Guidelines are:

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020).
- Urban Development and Building heights, Guidelines for Planning Authorities (2018).
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated 'Urban Design Manual') (2009).
- Circular Letter: NRUP 02/2021 in respect of Residential Densities in Towns and Villages, as set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)
- Design Manual for Urban Roads and Streets (DMURS).
- National Cycle Manual.
- Childcare Facilities – Guidelines for Planning Authorities.
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment.

6.3. Local Planning Policy - Dublin City Development Plan 2016-2022

The application site is primarily zoned 'Z1' (Sustainable Residential Neighbourhoods), *'To protect, provide and improve residential amenities.'* Residential is a permissible use under this zoning objective.

The vision for residential development in the city is one where a wide range of accommodation is available within sustainable communities where residents are within easy reach of services, open space and facilities such as shops, education, leisure, community facilities and amenities, on foot and by public transport and where adequate public transport provides good access to employment, the city centre and the key district centres.

A small section in the northeastern corner of the site includes zoned Z9: *To preserve, provide and improve residential amenity and open space and green networks.* This comprises the northern edge of Herzog Park.

Lands to the north and to the south are zoned Z2: *To protect and / or improve the amenities of residential conservation areas.*

Properties fronting Terenure Road East are identified as protected structures.

Section 4.5.3, Making a more Compact Sustainable City, promotes the consolidation of the city. Policy SC13 promotes sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city, which are appropriate to their context, and which are supported by a full range of community infrastructure.

Policy SC14 promotes variety of housing and apartment types which will create both a distinctive sense of place in particular areas and neighbourhoods, including coherent streets and open spaces.

Chapter 5 deals with Quality Housing, and policies include:

Policy QH5 promotes residential development addressing any shortfall in housing provision through active land management and a co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and under-utilised sites.

QH6: To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive city.

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

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

Section 11.1.5.3 of the plan deals with Protected Structures. Section 11.1.5.6 outlines Conservation Area Policy. Policy CHC2 seeks to protect the special interest of protected structures, while Policy CHC4 seeks to protect the special interest and character of conservation areas.

Section 16.4 promotes sustainable residential densities. Density should respect the existing character, context and urban form of an area and seek to protect existing

and future residential amenity. Public transport capacity will also be used to determine the appropriate density allowable.

An urban design and quality-led approach to creating urban densities is promoted, focused on the creation of sustainable urban villages and neighbourhoods. A varied typology of residential units will be promoted within neighbourhoods in order to encourage a diverse choice of housing options in terms of tenure, unit size, building design and to ensure demographic balance in residential communities.

Section 16.5 notes that the indicative plot ratio for outer city Z1 lands is 0.5 – 2.

In accordance with section 16.7.2, the site is considered to be 'outer city', wherein a maximum building height of 16m is specified for commercial and residential development.

7.0 Submissions Received

Irish Water: A Confirmation of Feasibility has been issued. In respect of Wastewater, an approx. 130m network extension will be required to connect to the wastewater network on Terenure Rd East. The applicant will be required to fund these upgrades which will be delivered in the public domain. The applicant must ensure that no storm water from site is discharged to the Irish Water network.

In respect of Water, an approx. 60m network extension will be required to connect to the watermain network in Rathgar Park. The applicant will be required to fund these local network upgrades which will be delivered in the public domain.

8.0 Forming the Opinion

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.

8.1. Documentation Submitted

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 documentation submitted with this pre-application consultation request is set out in Appendix 1 to this report.

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 relevant guidelines issued by the Minister under section 28 of the Act of 2000. Section 5(6) requires that where the proposed development would materially contravene the development plan or local area plan, other than in relation to the zoning of the land, then the statement provided for the purposes of subsection (5)(b)(i) shall indicate why, in the prospective applicant's opinion, permission should nonetheless be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000.

A Statement of Consistency under S.5(5) has been submitted, which considers compliance with the provisions of the following policy documents:

- Project Ireland 2040: National Planning Framework
- Housing for All – A New Housing Plan for Ireland (2021)
- Sustainable Urban Housing: Design Standards for New Apartments (2018)
- Urban Development and Building Heights: Guidelines for Planning Authorities (2018)
- Rebuilding Ireland: Action Plan for Housing and Homelessness (2016)
- Design Manual for Urban Roads and Streets (2019)
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), and the accompanying Urban Design Manual
- Childcare Facilities Guidelines for Planning Authorities (2001)
- Regional Economic and Spatial Strategy (RSES), for the Eastern and Midlands Region (2019)

The statement concludes that the proposed development is consistent with the proper planning and sustainable development of the area as expressed in national, regional and Guidelines issued under s.28 of the Act, and represents a high-quality Strategic Housing Development.

The Planning Statement, submitted under separate cover, considers the proposed development against aspects of the Dublin City Development Plan 2016-2022.

The request is also accompanied by a Material Contravention Statement in respect of contravention of the building height provisions of the City Development Plans, which concludes that the Board may grant permission under s.37(2)(b) of the 2000 Act (as amended) for the following reasons:

- i. the proposed development is of strategic and national importance.
- ii. National and Regional policy advocates compact growth through consolidation of the existing built environment together with a sequential approach to development. The development would satisfy the criteria of s.37(2)(b)(i).
- iii. Having regard to the emerging pattern of development in Rathgar and recent decisions to grant permissions for taller buildings in excess of that identified in the development plan, the proposed development meets the criteria of s.37(2)(b)(iii).

8.2. Planning Authority Submission

A submission from Dublin City Council was received by An Bord Pleanála on the 15/12/2021 in accordance with Section 6(4)(b) of the 2016 Act, which included:

1. A statement of the Planning Authority's opinion on the proposed development.
2. A copy of S.247 meeting records.
3. Copies of reports from relevant Departments (Transportation Planning Division, Parks, Drainage, Waste, Housing, EHO)
4. A list of relevant applications in the area.

The planning authority statement of opinion makes the following points:

- The development is permissible and generally consistent with the Z1 zoning objectives on the site.
- While the density of 181 / hectare is high in the surrounding context, there is a need for efficient use of brownfield land particularly in well-established residential areas with access to existing services and public transport.
- The site is suitable for higher density. The building footprint is not excessive.

- The spacing of buildings from the boundaries and from each other allows for good provision of open space. This is reflected in the 31% site coverage.
- The proposed pedestrian and cycle connections between Herzog Park and Terenure Road East are welcome.
- The contemporary design is of high quality, along with the spacing on the site and the use of quality materials, sits well within its receiving environment.
- The bulk and massing of the buildings is broken up with staggered heights and serrated building facades, which allows for increased dual aspect units and contributes towards visual interest.
- The development materially contravenes the building height provisions of the Development Plan.
- Proposed heights are acceptable having regard to the criteria set out in the Building Height Guidelines.
- There are concerns regarding the scale, massing and visual impact of Building 1 and Building 3 when viewed from the neighbouring properties at Terenure Road East and Victoria Road.
- The north elevation of Building 1, could read as dominant and overbearing from Terenure Road East (View 05B proposed) and should be reviewed.
- Block 3 could read as dominant and visually overbearing as viewed from the rear of no.'s 19-24 Victoria Road.
- The visual impact on the rear of these properties should be illustrated.
- The applicant should consider reducing the height and staggering the massing to reduce the overall visual impact on the neighbouring properties.
- Any roof apparatus should be fully detailed and assessed.
- The applicant should demonstrate that overlooking of adjoining properties from proposed balcony areas will not arise.
- Internal separation avoids overlooking and overshadowing.
- There are concerns that 32% of the KLD's fail to achieve the 2% ADF target. Redesign is advised in this regard.
- There will minimal impact on neighbouring gardens in terms of sunlight and shadowing.

- There is general compliance with the provisions of the Apartment Design Guidelines.
- SPPR 4 requires at least 50% dual aspect units for this location.
- There are discrepancies in the documentation identifying dual aspect units.
- The delineation of public and communal open space is unclear.
- There are concerns regarding the accessibility and usability of the proposed Public Open Space, which area would be better as communal open space.
- A financial contribution in lieu of public open space would be appropriate.
- The public open space requirement may be met by amalgamating a linear strip to into the Z9 lands along the eastern boundary
- Cycle parking is not considered to be *resident support facilities* as per the definition in the Apartment Guidelines.
- A building lifecycle report should accompany the application.
- The conclusions of the Childcare Assessment are considered reasonable.
- The inclusion of DCC lands will be subject to agreements on costs and boundary treatment. Sections of the boundary to the tennis courts should be provided.
- The taking in charge of public open space will be confirmed from Parks Services.
- The applicant has not yet engaged in Part V discussions with the City Council.
- The submitted Energy and Sustainability Report is acceptable.
- The site is well located In terms of community and social infrastructure.
- Further clarification on the surface water management strategy is required.
- Attenuation storage and petrol interceptor should be relocated to within the site ownership boundary.
- There is insufficient information regarding the impact on the existing road and footpath network.
- Road safety and Walkability audits are required.
- Internal pedestrian provision and relationship with the existing laneway to the north should be clarified.
- The transition / junction with Rathgar Park to the east requires further detail.
- The adequacy of Rathgar Park and Orwell Mews to accommodate the additional vehicle, cycle and pedestrian movements should be demonstrated.
- A traffic impact assessment and construction traffic impacts assessment is required.

- Further detail on cycle parking is required.
- Control of surface car parking is required to prevent overspill parking. Additional electrical charge points should be provided.

8.3. The Consultation Meeting

A Section 5 Consultation meeting was held on Tuesday 15th March 2022, commencing at 2pm, 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 and the main topics raised for discussion at the tripartite meeting were as follows:

1. Access and Transportation
2. Residential amenity, including Daylight and Sunlight
3. Open space
4. Building Height & Potential Material Contravention
5. AOB

Both the prospective applicant and the planning authority were given an opportunity to comment and respond to the issues raised by the representatives of ABP. Those comments and responses are recorded in the 'Record of Meeting ABP-311984-21' 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.

In relation to Access and Transportation, An Bord Pleanála sought clarification and further elaboration of the documents and justification for the proposed development in respect of the following:

- The tenure of the proposed development, whether Build to Sell or Build to Rent.
- The design of the proposed access arrangements.
- The ownership of the road at Rathgar Park and the right of access thereto.

- The capacity of Rathgar Park / Orwell Mews to accommodate the additional traffic movements arising from the proposed development.
- The routing of the access road across lands zoned as public open space.
- Clarity with regard to the treatment of site boundaries.

In relation to Residential amenity, including Daylight and Sunlight, An Bord Pleanála sought clarification and further elaboration of the documents in respect of the following:

- The relationship with adjoining properties and the potential overlooking and overbearing impacts thereon
- Clarity regarding private amenity space for ground floor units.
- Compliance with the provisions of Planning Guidelines with regard to Daylight and Sunlight and the presentation of the results of analysis in this regard.

In relation to Open space An Bord Pleanála sought clarification and further elaboration of the documents and justification for the proposed development in respect of the following:

- The design, layout and accessibility of proposed public open space.
- The treatment of the identified root protection zone on the eastern site boundary.

In relation to Building Height & Potential Material Contravention An Bord Pleanála sought further elaboration of the documents and justification for the proposed development in respect of:

- Compliance with the criteria under section 3.2 of the Building Height Guidelines.

In relation to AOB, An Bord Pleanála sought clarification in relation to the siting of attenuation tanks on the existing public laneway.

9.0 Conclusion and Recommendation

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, including s.28 Ministerial Guidelines, and local policy, via the statutory plan for the area.

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.

Having regard to all of the above, I recommend that further consideration and/or possible amendment of the documents submitted are required at application stage in respect of the following elements, details of which are set out in the Recommended Opinion below.

- Details the proposed access arrangements from Orwell Mews and Rathgar Park, including the ability to carry out the development as proposed, and the capacity of these roads to satisfactorily serve the proposed development.

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 **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.

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

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.

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.**

In the opinion of An Bord Pleanála, the following issues need to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could result in them constituting a reasonable basis for an application for strategic housing development:

1. Further consideration of, and possible amendment to the documents with regard to the design and layout of the proposed access to the development from Rathgar Park and Orwell Mews. The documents should provide detailed design proposals which demonstrate that an appropriate standard of pedestrian, cycle and vehicular access to the site can be provided, including service vehicle access.

The extent of works proposed on lands outside the prospective applicant's control or ownership should be clearly identified and, where required, evidence of any necessary consent to implement the proposed access arrangements should be provided.

This may require possible amendment to the documents and/or design proposals submitted.

2. Further consideration of, and possible amendment to the documents, including a detailed statement of consistency and planning rationale, clearly outlining how, in the prospective applicant's opinion, the proposed development is in compliance with local land use zoning objectives having specific regard to route of the proposed access road which appears to traverse lands zoned Z9 (open space) within the Dublin City Development Plan 2016.

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:

1. A report addressing the matters raised in the report of the Dublin City Council Transportation Planning Division, dated 10/12/2021. This report should include, inter alia, the following:
 - a) A detailed Traffic and Transport assessment in respect of the proposed development.
 - b) A Quality Audit in accordance with Annex 4 of the Design Manual for Urban Roads and Streets (DMURS). This assessment should include a qualitative assessment of the capacity of the road and street network providing access to the site, including Orwell Mews and Rathgar Park.
2. Further clarity with regard to the provision of private amenity space for each proposed dwelling unit, particularly at ground floor level, ensuring consistency between the submitted drawings and plans and compliance with relevant guidelines and standards.
3. The application should include a comprehensive daylight and sunlight assessment examining the proposed dwelling units and amenity / open spaces, as well as potential impacts on daylight and sunlight to adjoining properties. In

preparing such assessment regard should be had to the provisions of section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities (2018) and to the approach outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.

The assessment should provide a comprehensive view of the performance of the entire development in respect of daylight provision. Where any alternative, compensatory design solutions in respect of daylight are proposed, these should be clearly identified and justified, and their effect appropriately described and / or quantified.

4. Further detail and clarity with regard to measures proposed for the protection of existing trees along the eastern site boundary.
5. Further detail describing the relationship between the proposed development and adjoining residential properties, to include detailed section drawings and additional visualisations / CGI's.
6. A revised visual impact assessment which should take account of the reduced screening effect of foliage during winter months and the potential loss of trees and vegetation due to the proposed access arrangements.
7. Details of areas intended to be taken in charge by the Local Authority.
8. A report that specifically addresses the proposed materials and finishes to the scheme, including specific detail of external finishes, landscaping and paving, pathways, entrances and boundary treatments. Particular regard should be had to the requirement to provide high quality, durable and sustainable finishes which have regard to the context of the site.
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.

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. Minister of Housing, Local Government and Heritage
3. Heritage Council
4. An Taisce
5. Dublin City Childcare Committee

PLEASE NOTE:

Under section 6(9) of the Planning and Development (Housing) and Residential Tenancies Act 2016, neither the holding of a consultation under section 6, nor the forming of an opinion under that section, shall prejudice the performance by the Board, or the planning authority or authorities in whose area the proposed strategic housing development would be situated, of any other of their respective functions under the Planning and Development Acts 2000 to 2016 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

Conor McGrath
Planning Inspector

23/03/2022

Appendix 1

Documentation accompanying the S.5 request includes the following:

- Application Form
- Planning Statement
- Statement of Consistency
- Material Contravention Statement
- Environmental Report
- Childcare Demand Report
- Social Infrastructure Audit
- Architectural Design Statement
- Architectural Drawings including Part V proposal and Housing Quality Assessment
- Building Lifecycle Report
- Ecological Impact Assessment (including Bat Fauna Impact Assessment)
- Appropriate Assessment
- Sunlight/Daylight Assessment
- Site Lighting Report
- Lighting Drawing
- Energy Sustainability Statement
- Townscape Visual Impact Assessment
- Photomontage / CGI
- Engineering Services Report
- Outline Construction Management Plan
- Residential Travel Plan
- Engineering Drawings
- DMURS Statement
- Site Specific Flood Risk Assessment
- Traffic and Transport Assessment
- Arboricultural Assessment Report & Drawings
- Operational Waste Management Plan
- Site Investigations Report
- Waste Classification Report