



An  
Bord  
Pleanála

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

### **Inspector's Report on Recommended Opinion TC0002**

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<b>Strategic Housing Development</b>	10-year permission for 934 residential units (363 houses and 571 apartments), a childcare facility, 2 no. retail units, 1,325 car parking spaces, landscaping and associated works.
<b>Location</b>	Clay Farm, Ballyogan Road, Dublin 18.
<b>Planning Authority</b>	Dun Laoghaire Rathdown Co. Co.
<b>Prospective Applicant</b>	Viscount Securities
<b>Date of Consultation Meeting</b>	16 <sup>th</sup> August 2017
<b>Date of Site Inspection</b>	2 <sup>nd</sup> August 2017
<b>Inspector</b>	Tom Rabbette

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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 to the south of Ballyogan Road in Dublin 18. The site forms part of a holding known as Clay Farm. The associated Clay Farm house is located to the west of the site but is outside of the designated site boundary. The site forms the second phase of development of an overall holding of some 32.5 ha, the subject site has a stated area of c. 20.57 ha. The permitted Phase 1 is located to the north of the site and construction works are on-going on that Phase 1 area.
- 2.2. The site is bounded to the south-east by a golf course, to the south-west by existing developed residential areas of Cruagh Wood and Stepside Park and to the north-west by undeveloped lands.
- 2.3. The site is approximately 11 km from the city centre. It is approximately 1.6 km from Junction 14 on the M50 to its north-west and 1.6 km from Junction 15 to the east. The Green Luas Line runs along the Ballyogan Road to the north of the site.

## **3.0 Proposed Strategic Housing Development**

- 3.1. The proposal is for 934 residential units made up of 363 houses and 571 apartments. A mix of house and apartment types is proposed. The mix includes 3 and 4 bed terraced houses of various gross floor areas, some are to be two-storey and some three-storey. One, two, three and four bedroom apartments are also proposed and some of these will be duplex units. Seven apartment blocks are proposed and these range in height from three to six storeys.

- 3.2. The proposal includes a childcare facility, 2 retail units, 1,325 car parking spaces (surface and basement), landscaping proposals and associated works.
- 3.3. The proposal is being described as Phase 2 following on from Phase 1 as granted on the adjoining lands to the north, Phase 1 was granted permission under D15A/0247 (PL 06D.246601). That Phase 1 is currently under construction.
- 3.4. The proposal includes a section of the Clay Farm Loop Road from the Phase 1 area to the south western site boundary.

## 4.0 Planning History

D15A/0247 (PL06D.246601): Development described as a 7-year permission for a residential development of 410 residential units and a childcare facility with all associated site works at Clay Farm, Ballyogan Road, D.18. The Board granted permission for the development subject to conditions. This development is to the north of the current proposed site and is referred to as Phase 1 of the development of the overall Clay Farm holding.

D06A/0531 (PL06D.223029): Development described as a ten-year permission to construct 714 residential units and all associated works at Clay Farm, Ballyogan, D. 18. The Board granted permission with conditions. The permission was never executed.

## 5.0 National and Local Planning Policy

### 5.1. Section 28 Ministerial Guidelines

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant S.28 Ministerial Guidelines are:

- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')

- 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities'
- 'Design Manual for Urban Roads and Street'
- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices')
- 'Framework and Principles for the Protection of the Archaeological Heritage'
- 'Childcare Facilities – Guidelines for Planning Authorities'

## 5.2. Statutory Plan for the area

The operative plan for the area is the Dún Laoghaire-Rathdown County Development Plan 2016-2022. The site is zoned 'Objective A – to protect and/or improve residential amenity'. It is an objective of the p.a. to prepare a Local Area Plan for Ballyogan and Environs as indicated in Table 1.3.1 of the CDP, the site is located within the proposed LAP area. Development in and around the site is referred to in s.1.3.4.9 of the written statement. It is noted that Stepside-Ballyogan is one of the primary growth nodes from which a significant portion of the supply of residential units will derive up to the 2022 horizon as indicated in section 1.2.5 of the written statement of the CDP. The 'Clay Farm Loop Road' is listed as a 'six-year road objective' as per Table 2.2.5 of the CDP. The 'Enniskerry Road to Jamestown Park to Ballyogan to Leopardstown' is one of a number of identified greenway routes in section 4.2.2.7 of the written statement. The former Ballyogan landfill to the north-east of the site is to be developed as a new public park (Jamestown Park) as indicated in Policy OSR9. Residential development standards are addressed in Chapter 8 of the CDP. The authority's Building Height Strategy is addressed in Appendix 9 of the CDP.

## 6.0 Forming of 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 submissions and the discussions which took place during the tripartite consultation meeting. I shall provide a brief detail on each of these elements hereunder.

## 6.1. 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 information submitted included, *inter alia*, the following: an OS map; Completed Application Form; site layout plans; Tree Survey drawing; Tree Removal, Retention and Protection Plan drawing; a Landscape Masterplan; Tree Survey Report; AA Screening Report; Landscape Design Statement; Foul Sewer to Outfall Layout; Watermain Layout; Suds and Attenuation Layout; DMURS Roads Layout; Construction Phase & Operational Phase Waste Management Plan; Electrical Services Installation Site Services Layout; Electrical Services Installation Site Lighting Services Layout; Electrical Services Installation Site Lighting Lux Level Layout; Proposed Utilities & Energy Report; Schedules Document; Part V Social and Affordable; Development Details Overview; Design Statement; Traffic & Transport Review; Hydraulic Analysis of Future Bridge for Phase 2; Planning Report; Environmental Report; Statement of Compliance with Planning Policy; Engineering Services Report; Site Specific Flood Risk Assessment; and a Construction Management Plan.

I have reviewed and considered all of the above mentioned documents and drawings.

## 6.2. Planning Authority Submission

In compliance with section 6(4)(b) of the 2016 Act the planning authority for the area in which the proposed development is located, Dún Laoghaire-Rathdown County Council, submitted copies of their records of their section 247 consultations with the prospective applicant (including documentation that was submitted as part of those pre-application consultations) and also submitted their opinion in relation to the proposal. These were received by An Bord Pleanála on the 02/08/2017.

The planning authority's 'opinion' included, *inter alia*, the following: reference to relevant planning histories; a description of the site and surrounding area; an assessment of the proposed development; details of the prospective development

including density, residential mix, design, layout, Part V compliance, traffic & transport, apartment standards, residential amenity, open space provision, trees & boundaries, biodiversity, drainage, schools, and taking in charge. The planning authority concluded that the principle of the development is consistent with the Regional Settlement Policy and the strategic objectives of the statutory development plan for the area. The planning authority went on to acknowledge the potential for a quality, high density development on the site which they describe as 'significant' and which is well served by high quality public transport.

The planning authority's opinion also concluded with a list of matters that require further consideration and amendment. These related to: open space provision and design; need for a comprehensive Tree Report; internal roads layout; layout in the vicinity of the greenway; transportation issues; existing and future residential amenity; the design of the neighbourhood centre; revision of the Site Specific Flood Risk Assessment; detailed drainage issues; information on baseline noise environment; Part V compliance, and biodiversity. The planning authority's submission also included internal reports from the Drainage Planning Section, the Biodiversity Officer, the Transportation Planning Section, the Senior Executive Parks Superintendent, and a Housing Department Report.

There were 5 no. formal pre-application consultation meetings held between the prospective applicant and the planning authority pursuant to s.247 of the Planning & Development Act 2000 (as amended). These were held on the 30/09/16, 26/10/16, 01/12/16, 27/01/17 and 29/03/17. The planning authority have submitted copies of documents discussed at those consultation meetings. Issues raised at those meetings included, *inter alia*, the following: density proposed; layout; delivery and design of the Loop Road; archaeology; trees on the site; hedgerows, fauna; DMURS; topography of the site; open space strategy; building height; car parking provision; social infrastructure; provision of a crèche; noise impact issue that arose in the Phase 1 proposal; residential mix; surface water attenuation; pedestrian and cyclist connectivity; flood maps; TII concerns relating to impact on M50; drainage; Traffic Impact Assessment; provision of a playing pitch; access, and analysis of Ballyogan Road junction.

All of the documentation submitted by the planning authority has been reviewed and considered by the undersigned as part of the opinion forming.

### 6.3. Consultation Meeting

A section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 16<sup>th</sup> August 2017, commencing at 2:30 pm. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting.

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

1. Traffic and Transportation issues, including, accessibility, permeability, compliance with DMURS, impact on Ballyogan Road, green links and access for adjacent development.
2. Density proposed
3. Obligations under Part V of the Planning & Development Act 2000 (as amended).
4. Open space provision, both public and private, and the nature and function of that open space.
5. Existing adjacent residential amenities and proposed residential amenity within the scheme.
6. Neighbourhood Centre design
7. Drainage issues including attenuation and Site Specific Flood Risk Assessment
8. Biodiversity
9. Any other matters

In relation to Traffic and Transportation issues, ABP representatives sought further elaboration/discussion on the following: delivery of the Loop Road and potential impact on Ballyogan Road in the interim, particularly on the eastern junction at Leopardstown Valley; conditions on adjacent planning histories to the south pertaining to access (temporary and permanent): potential rat running from Enniskerry Road via Cruagh Wood; possible ransom strip on Cruagh Wood site of proposed connecting road; width of Greenway in terms of delivering cycle and pedestrian infrastructure, biodiversity protection, flood attenuation, tree and



hedgerow protection; "Desire line" for pedestrians and cyclists from Cruagh Wood and Stepside Park to Ballyogan Road via the site, and the planning authority's Transportation Report and issues therein.

In relation to density proposed, ABP representatives sought further elaboration/discussion on the proposed densities relative to Phase 1, proximity to the Luas Stop and Ballyogan Road.

In relation to obligations under Part V, ABP representatives sought further elaboration/discussion on potential agreement between the prospective applicant and the planning authority regarding Part V units.

In relation to open space provision, ABP representatives sought further elaboration/discussion on the following: consideration of additional area of open space to south of the site to serve that area; the PA's Parks and Landscape Services Report and issues therein; Tree Protection Orders or specific objectives applying to the site in relation to tree and/or hedgerow protection/retention, and separation distances between proposed dwellings and existing dwellings in Stepside Park.

In relation to the proposed neighbourhood centre, ABP representatives sought further elaboration/discussion on the planning authority's concerns in relation to the design of the centre.

In relation to drainage issues, ABP representatives sought further elaboration/discussion on the Site Specific Flood Risk Assessment and the stream running north towards the valley.

In relation to biodiversity, ABP representatives sought further elaboration/discussion on planning authority's Biodiversity Officer's Report and issues contained therein.

In relation to other matters, ABP representatives sought further elaboration/discussion on archaeology, specific design issues and materials to be used on the proposed buildings.

Both the prospective applicant and the planning authority were given an opportunity comment and respond to the issues raised by the representatives of ABP. Those comments and responses are recorded in the 'Record of Meeting TC0002' 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.

## 7.0 Conclusion and Recommendation

Based on the entirety of the information before me, it would appear that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

I have examined all of the information and submissions before me including the documentation submitted by the prospective 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 development plan for the area.

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: the proposed Neighbourhood Centre; public open space, and Part V obligations, details of which are set out in the Recommended Opinion below.

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.

## 8.0 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:

### Neighbourhood Centre

1. Further consideration is required in respect of the documents (design rationale and detailed drawings/design proposals) relating to the proposed neighbourhood centre. This consideration should address: height issues (noting the crèche building forming part of the neighbourhood centre is proposed as a single storey structure); the creation of a focal point for the overall scheme at this location; the creation of a sense of place, and interface with the open space to the south and plaza to the west. Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

### Public Open Space

2. Further consideration of, and if necessary, further justification for, the quantum and distribution of public open space provided to serve the development, specifically in relation to open space provision to serve the

proposed dwellings towards the south-western end of the development (in the vicinity of the site boundary with the Cruagh Wood development). The further consideration of this issue may require an amendment to the documents and/or design proposals submitted relating to open space provision.

3. Further consideration should be given in relation to the design rationale/justification of the width of the greenway proposed along the south-east site boundary adjacent the golf course grounds. The consideration should address potentially competing space demands for: tree root protection area; biodiversity protection; provision of a cycle link; provision of a pedestrian link; existing buried infrastructure in the area; urban drainage requirements, and the provision of an access road/street to serve the dwellings proposed to its west. The further consideration of this issue may require an amendment to the documents and/or design proposals submitted. The documentation at application stage should include a number of cross-sectional drawings through this area.

#### Part V of the Planning & Development Act 2000 (as amended)

- 4 Further consideration is required in respect of the documentation relating to obligations under Part V of the Planning and Development Act 2000 (as amended). The further consideration should have regard to the requirements of the Housing Section of Dún Laoghaire-Rathdown County Council in relation to this matter (as outlined in their report dated 31/07/17).

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. The Minister for Culture, Heritage and the Gaeltacht (for archaeological heritage protection and nature conservation)
2. The Heritage Council (for archaeological heritage protection and nature conservation)
3. An Taisce – the National Trust for Ireland (for archaeological heritage protection and nature conservation)

4. Inland Fisheries Ireland
5. Córas Iompair Éireann
6. Transport Infrastructure Ireland
7. National Transport Authority
8. Irish Water

Pursuant to article 285(5)(b) 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. Justification for the density proposed across the site, noting, *inter alia*, that the site is in proximity to the Green Luas Line along the Ballyogan Road and the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (May 2009) states, *inter alia*, that minimum net densities of 50 dwellings per hectare should be applied within public transport corridors. The justification may wish to consider the densities across the previously granted Phase 1 as well as those proposed in Phase 2.
2. Studies, in plan form and, if deemed necessary, cross sections, indicating the private open space provision (e.g. back gardens) for each dwelling and separation distances between proposed dwellings. (It is noted that similar studies were submitted in relation to the planning application on Phase 1 subject of planning ref. no. D15A/0247 [PL06D.246601].)
3. Cross-sectional studies demonstrating proposed housing units nos. 1 and 2 located in the south-west corner of the site. The cross-sections should show the proposed dwellings units relative to the two-storey dwellings in Stepside Park to the west of the proposed dwellings and also relative to the existing apartment block located to the south-west.
4. Cross-sections through the dwellings proposed backing onto the existing dwellings in Stepside Park. The cross-sections should show the proposed dwellings relative to the existing dwellings. The cross-sections should include those through, *inter alia*, proposed units nos. 10, 11, 12, 13, 14 and 55.

5. Photomontages at various locations throughout the development showing the finishes/materials proposed within the public domain and to the proposed buildings. (It is noted that similar studies were submitted in relation to the planning application on Phase 1 subject of planning ref. no. D15A/0247 [PL06D.246601].)
6. An assessment of the impact of the proposed development on transport in the area, including impact on roads (including the impact on the Ballyogan Road/eastern junction of the proposed Loop Road). The assessment should clearly indicate what units as existing or granted, to the south of the site, are to be provided with vehicular access via the application site. The documentation should indicate the relevant planning reference numbers of the neighbouring developments. The site layout plan should indicate what units are to be serviced/access via the application site. Where it is proposed to close existing access roads in the adjacent developments to the south, the road closure locations should be clearly indicated.
7. Information demonstrating the impact, if any, on the usability/functionality of areas of open space indicated as active recreational space that are also proposed as part of the urban drainage infrastructure serving the site.
8. A site layout plan clearly indicating what areas are to be taken in charge by the Local Authority.

**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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Tom Rabbette  
Assistant Director of Planning  
(Reporting Inspector on TC0002)  
30<sup>th</sup> August 2017