



Development

Amendments to Blocks D and E permitted under F07A/0394 and extended by F07A/0394/E1 and amended by F14A/0190 and F14A/0363 consisting of the reconfiguration of units and the provision of 4 additional units and associated works. On a 3.075 ha site bounded by the Malahide Road, Parkside Boulevard and Balgriffin Cottages of Balgriffin, Co. Dublin.

Planning Authority

Fingal County Council.

Planning Authority Reg. Ref.

F16A/0071.

Applicants

Shannon Homes Dublin Limited.

Type of Application

Permission.

Planning Authority Decision

Grant.

Appellant

Brenda Doyle.

Type of Appeal

3rd Party -v- Grant

Observers

None

Date of Site Inspection

5th October, 2016.

Inspector

Paul Caprani

1.0 Introduction

PL06F.246736 concerns a third party appeal against the decision of Fingal County Council to issue notification to grant planning permission for amendments to an existing residential development on the Malahide Road which includes the provision of four additional apartments and associated works. The grounds of appeal argue that the proposed development represents a creeping intensity of use which results in the overdevelopment of the site and will give rise to amenity issues in terms of open space provision and the provision of car parking etc.

2.0 Site Location and Description

2.1. The appeal site is located in the small settlement of Balgriffin on the eastern side of the Malahide Road north of Clare Hall and approximately 6 miles north of Dublin City Centre. Balgriffin has been the subject of significant development in recent years with large scale residential and mixed use developments to the south and west of the subject site. The historic settlement of Balgriffin is centred on the junction between the R123 and the Malahide Road to the immediate north-west of the subject site. A row of late 19th century cottages which are located to the immediate north-east of the subject site face northwards onto Balgriffin Cemetery and the R123. To the immediate east of these cottages and the immediate north of the subject site a newly constructed residential development, 'Balgriffin Park' is situated. This residential development comprises of approximately 60 terraced dwellings. Newly constructed residential dwellings comprising of a mixture of houses and apartments are located further east. A newly constructed road network has also been recently completed in the vicinity of the subject site.

2.2. The site itself is currently a construction site. The entire site stretches from the newly constructed distributor road which runs along the eastern side of the 'Balgriffin Park' and the eastern boundary of the subject site to the Malahide Road along the western boundary of the site. The total site area is stated on the planning application form as

3.075 hectares. A number of apartment blocks are currently under construction on the entire site. The apartment blocks on the western side of the site with closer proximity to the Malahide Road are approved under previous planning applications F07A/0394/E1 and F014A/0363 (An Bord Pleanála Ref. PL06F.244157) – see planning history below). The subject application however only relates to two apartment blocks located in the eastern portion of the site Block D and Block E.

2.3. Block D comprises of an inverted L-shaped building which is currently under construction on site. Block D has an existing permission for 68 one, two and three bedroomed units over five floors.

2.4. Block E which is likewise under construction comprises of a slightly smaller L-shaped block to the east of Block D. It has an extant permission for 58 one, two and three bedroomed units. The photographs attached indicate currently the core shell of each of the Blocks have been constructed. The site is currently bounded by hoarding. A small stream runs along the southern boundary of the site it appears from my site inspection that this stream is to be culverted as part of the proposed development. The newly constructed Parkside Boulevard Road runs along the southern boundary of the site.

3.0 **Proposed Development**

Planning permission is sought for the following alterations to Blocks D and E.

Block D – Ground floor, apartments in the north-western corner.

- Apartment D3 reduced in size from 82.7 square metres to 73.0 square metres.
- Apartment D2 increased in size from 51.4 square metres to 62 square metres incorporating a new study room.

Block D, south-eastern corner.

- Apartment D51 reduced from 82.7 square metres to 73.0 square metres.
- Apartment D52 increased from 51.4 square metres to 62 square metres incorporating new study.

Block D – First, Second and Third Floors.

- Incorporation of obscure glazed windows for bathrooms and living rooms on Units D6, D9 and D12 on north-western elevation.

Block D – Fourth Floor north-eastern corner of the block.

- Subdivision of Unit D23 from 3-bed apartment to two no. two-bed apartments (D23 and D23A).
- Subdivision of Units D36 and D37 from two no. three bed apartments to three no. two bed apartments D36, D37, D37A.

Block D – Fifth Floor level.

The omission of two no. three bed apartments (D65, D66) and replacement by three two bed roomed apartments D65, D66 and D66A.

Block E – Ground floor.

- Revision of floor areas for the following units. Units E15, Unit E16 and Unit E17 (incorporation of new study room). E36 and E38 (incorporation of new study room).

Block E – Fourth floor

- Revisions in layouts of E31, E32 and E33.

Block E – Fifth floor

- Replacement of three no. three-bed apartments at penthouse level to 4 two bed apartments.

The proposed changes above result in the incorporation of four additional units within the layout.

The proposal also results in consequential alterations to the fenestration on both blocks.

It is also proposed to incorporate six additional car parking spaces at basement level to cater for the four new residential units.

4.0 Planning Authority's Assessment

- 4.1. The planning application was lodged with Fingal County Council on 26th February, 2016. A covering letter was submitted with the application in detail the revisions proposed under the current application. A report from Fingal County Council Planning and Strategic Infrastructure Department Water Services Section stated that there was no objection subject to conditions. A report from Irish Water stated that there was no objection subject to conditions.
- 4.2. A report from the Parks Planning Section stated that there was no objection to the proposed development.

- 4.3. A letter of objection from the current appellant was submitted on 31st March, 2016 the contents of which has been read and noted.
- 4.4. A report from the Transportation Planning Section stated that there was no objection to the proposed development. It does note however that, in the event that a concurrent application on the adjoining site is permitted (F16A/0070 for the provision of one additional unit, the Board will note that this application was not subject to an appeal). One additional visitor car parking space shall be provided.
- 4.5. The **initial planner's report** generally considers the proposed development to be acceptable in terms of layout, density and the proposed mix of unit sizes. It is noted however that there are a number of discrepancies in the drawings and additional information should be requested in this regard.
- 4.6. On 21st April, 2016 Fingal County Council requested that the applicant submit **additional information** addressing a number of discrepancies which were noted in the drawings submitted with the original application.
- 4.7. This **further information** was submitted on 26th April, 2016.
- 4.8. A further planner's report notes the additional information submitted and considered that the information submitted to be acceptable. The report concludes that the proposed development is in keeping with the already approved development and the pattern of development in the area and is therefore considered to be in accordance with the proper planning and sustainable development of the area.
- 4.9. In its decision dated 19th May, 2016 Fingal County Council granted planning permission for the proposed development subject to 11 conditions.

5.0 **Planning History**

There is a long planning history associated with the site and contiguous sites to the west and north. Details of the full planning history are set out in the Local Authority planner's report and in the previous planning inspector's report prepared under

PL06F.244157 (see file attached). The most relevant planning history is summarised below.

The parent application relating to the site is Reg. Ref. 50A/1333 (An Bord Pleanála Reg. Ref. PL06F.215382) the Board will note that this file is not attached. Under this application, An Bord Pleanála overturned the decision of the Planning Authority and granted planning permission for 138 apartments (reduced from 149) in three separate blocks ranging from three to five storeys in height.

Under F07/0167 amendments were made to this parent permission.

A further permission F07A/0394 and F07A/0394-E1 (extension of time) revised Blocks B and C and provided for two new blocks – Blocks D and E. Under this application it was proposed to provide a total of 180 apartments and a small crèche in six separate blocks. This application related to the subject site and the lands to the west.

Under a more recent permission (Reg. Ref. F14A/0363) An Bord Pleanála Ref. PL244157, the Board upheld the decision of Fingal County Council and granted planning permission for 77 units in four blocks, to the immediate west bringing the total number of apartments within the development to 245 apartments. The Board in granting planning permission for the proposed development reduced the number of units from 77 to 65. This decision was dated 7th April, 2015.

A separate file is also attached PL06F.242409 (Fingal County Council Reg. Ref. 13A/0204). This relates to the site to the immediate north. Under this application An Bord Pleanála granted permission for an increase in the number of dwellings granted under a previous decision by Fingal County Council (Reg. Ref. 06F.1918) to increase the number of dwellings from 48 to 62. Fingal County Council issued notification to refuse planning permission but the Board overturned this decision on appeal in December, 2013. This development has recently been completed on lands to the immediate north.

6.0 Grounds of Appeal

- 6.1. The decision was appealed by Brenda Doyle a resident on the Malahide Road in Balgriffin. The grounds of appeal are outlined below.
- 6.2. Concerns are expressed that the height and density of the proposed development has been consistently altered over the previous 10 years through various grants of planning permission which has resulted in the erosion of the amenity of the area. It is argued that both Fingal County Council and An Bord Pleanála have either refused or reduced the size and scale of the development in initial decisions only to grant planning permission for subsequent applications of greater height and density.
- 6.3. It is considered that the additional four units proposed under the current application is excessive on a site that already lacks sufficient open space.
- 6.4. The proposal will result in major changes to the configuration to the underground car park.
- 6.5. The grounds of appeal also express concerns that there are conflicting opinions both internally between Fingal and An Bord Pleanála relating to the planning application submitted over the previous number of years. Reference is made to the Board's decision in respect of the most recent application (Reg. Ref. PL244157) where the Board's decision did not reflect the inspector's concerns in respect of the height and density of the proposed development.
- 6.6. The appellant states that she totally opposes An Bord Pleanála's decision to decrease the open space levy under the previous application (An Bord Pleanála Reg. Ref. 06F 244157).
- 6.7. Finally, the grounds of appeal quote extensively from the inspector's report in respect of Reg. Ref. PL244157 which argued for the reduction in the height and density of the previous application proposed.

6.8. In conclusion the grounds of appeal totally oppose another increase in density which would result from the current application and a further reduction in public open space which is deemed to be totally unacceptable.

7.0 Appeal Responses

A response was received on behalf of the applicant by McCrossan O'Rourke Manning Architects. The response to the grounds of appeal are as follows:

With regard to the issue of increased density it is stated that the total of number of units permitted on site under Reg. Ref. 07A/0934 amounted to an overall density of 80.33 units per hectare. The additional five units proposed under the two concurrent applications (F16A/0070 – one unit, no appeal on this application, and F14A/0071 – four units this application is the subject of the current appeal) results in a new density of 81.95 units per hectare which remains within the range deemed acceptable by the Board's inspector in relation to the previous case PL06F.244157 and is also in compliance with the Residential Density Guidelines. It is also noted that the layout changes are generally contained within the permitted floor area of Blocks D and E and only a minimum amount of additional area is proposed.

With regard to open space, it is stated that the standards set out in the Development Plan when applied to the current application results in an overall decrease in public open space requirements. This is due to the proposed change of mix from three bedroom units to two bedroom units.

With regard to car parking it is proposed to provide an additional six car parking spaces in the basement which results in minor amendments to the basement layout. It is accepted that this will result in an increase of traffic movements on site but this minimal in the context of the overall traffic generation associated with the development.

8.0 Planning Authority's Response to the Grounds of Appeal

- 8.1. It is stated that the application was assessed against the policies and objectives in the development plan and existing government policy and guidelines.
- 8.2. In relation to the financial contribution issue, it is stated that the additional floor-space generated by the proposed development is 104 sq m and as such, the Planning Authority is of the view that the contribution of €7,919 (based on €76.14 per square metre) is accurate.
- 8.3. It is also stated that the bond security as required by condition no. 11 is appropriate.
- 8.4. With regard to public open space provision, the Planning Authority is of the view that the development does not give rise to an increase in open space requirements. It is considered that the proposed development is in keeping with the already approved development and the pattern of development in the area and that the proposal will not detract from adjoining residential amenity. In the event that the Planning Authority's decision is upheld, the Planning Authority request that condition nos. 10 and 11 be included in the Board's determination.

9.0 Development Plan Provision

- 9.1. The site is governed by the policies and provisions contained in the Fingal County Development Plan 2011-2017. The subject site is zoned RS – to provide for residential development and protect and improve residential amenity. The vision under this zoning objective is to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity. In terms of residential standards Objective RD7 requires that new residential units comply with or exceed the minimum standards set out in Tables RD1, RD2 and RD3. Table RD2 sets out the minimum standards for apartment/duplex units. Table RD3 sets out the minimum room sizes.

9.2. The provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, prepared by the Department of Environment, Heritage and Local Government and the “Sustainable Urban Housing: Design Standards for New Apartments (December 2015, would also apply in this instance). These guidelines will be referred to where appropriate in my assessment below.

10.0 Planning Assessment

10.1. I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal.

10.2. The grounds of appeal argue that the proposal for the various iterations and alterations throughout the history of the scheme has resulted in an unacceptable form of overdevelopment of the site. In my opinion I consider the key issue in relation to this assertion is whether or not the proposed alterations result in an unacceptable form of development on the subject site. I note that the proposed alterations and increase in the number of units will not result in any increase in height nor will it result in any material alteration in the footprint of the buildings on site. The proposal will result in slight alterations to the design but it will not in my view have a material impact on the aesthetics of the residential blocks particularly in the context of the design which already has the benefit of planning permission. The incorporation of windows on the gable end of Block D will incorporate obscure glazing so as to prevent any overlooking of the adjoining units in Block E. The Board should note that in the case of these units (D6, D9 and D12) that the obscure glazing will be incorporated into a window serving the living room area. However, the Board should also note that these areas are all dual aspect and as such are not reliant exclusively on windows incorporating obscure glazing for adequate sunlight and daylight penetration.

10.3. In terms of density, the increase in density is negligible and will result in an increase from 80.3 units per hectare to just less than 82 units per hectare. Perhaps more

importantly, in terms of intensity of use, while the proposal results in four more units it will result in only one additional bedroom on foot of the revisions proposed. The proposal therefore will not result in any material intensity of development on site. In terms of unit mix, there is generally a recognition that the housing market needs to move away from an overprovision on conventional three and four bedroom units to smaller units in order to cater for housing requirements for those other than families.

- 10.4. Finally, in relation to this issue the Board will note that there is a requirement, particularly have regard to the current housing crisis and the recently published “Action Plan for Housing” in which one of the five key pillars is to build more homes and to provide additional housing at appropriate densities. The proposed provision of additional units without any consequential increase in the size and scale of the development is in my view fully in accordance with this Action Plan. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas suggest that densities in excess of 50 units per hectare can be provided in suitable areas with good transportation links. The subject site is located adjacent to the Malahide Road, which incorporates a QBC and is c.2.5 kilometres from Clongriffin Dart Station.
- 10.5. The grounds of appeal also argue that the proposed development in this instance would be contrary to many previous decisions and recommendations made by both Fingal County Council and An Bord Pleanála in respect of previous applications on the subject site. I do not propose to assess the proposed development in the context of previous decisions. These matters have already been determined and revisiting issues where decisions have already been made serve no purposes for determining the current application and appeal before the Board. The current application before the Board should be determined on its own merits and in accordance with the proper planning and sustainable development of the area. I have argued above that the proposed development will not have any significant or material impact in terms of density and altering the visual amenity development and I consider it to be

acceptable in terms of protecting existing residential amenity for reasons previously outlined in this assessment.

10.6. In terms of open space provision the grounds of appeal argue that the increase in four residential units will result in a greater demand for public open space within the development. The applicant argues that the requirement for public open space will actually decrease as a result of the changes proposed. The response to the grounds of appeal state that the public open space requirement will be reduced in the case of replacing 7 three bedroomed apartments with 11 two bedroomed apartments from 612.5 square metres to 412.5 square metres. This would appear to be the case based on the standards set out in Objective OS02 on the Fingal County Development Plan. For the purposes of calculating public open space requirements Plan states that such requirements are to be based on the number of residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings where three or more bedrooms are provided and 1.5 persons in the case of dwellings where two or fewer bedrooms are required. Under the extant permission therefore the public open space requirement would be based on an occupancy rate of 26 persons (7 three bedroomed units with an occupancy rate of 3.5 persons per unit and 1 two bedroomed units with an occupancy rate of 1.5 persons). Under the current proposal the occupancy rate associated with 11 two bedroomed apartments would be 16.5 persons. Therefore, the communal open space requirement would be less under the proposed revisions.

10.7. With regard to the issue of car parking, the applicant has in my opinion adequately demonstrated that an additional six car parking spaces can be provided within the basement area with a slight extension of the area and a reconfiguration of the parking provided. The provision of six car parking spaces would be in accordance with the requirements of the development plan of providing 1.5 car parking spaces per unit. I would also agree with the applicant that the provision of six additional spaces would be negligible in terms of creating additional trip generation to and from the site. The Board will note that the site is bounded by good quality roads including

two regional roads and a newly constructed Parkside Boulevard to the south of the site. I therefore consider the road network surrounding the site capable of catering for any increases in trip generation arising from the proposed alterations.

11.0 Appropriate Assessment

The nearest Natura 2000 site is the Baldoyle Bay SAC which is located just over 2 kilometres to the east of the subject site. Having regard to the nature and scale of the proposed development which essentially relates to the reconfiguration of residential units within an existing approved development and proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with others plans or projects on a European site.

12.0 Conclusions and Recommendations

Arising from my assessment above I consider that the Board should uphold the decision of the Planning Authority and grant planning permission for the proposed amendment on the basis that the proposed amendments will not result in any significant or material impact on surrounding residential amenity and would otherwise be in accordance with the proper planning and sustainable development of the area.

13.0 Decision

Grant planning permission in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

Reasons and Considerations

Having regard to the residential zoning objective relating to the site, the planning history and the existing pattern of residential development in the area it is considered that subject to compliance with conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development therefore would be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further information received on the 26th day of April 2016 except as may otherwise to be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The conditions of the permissions granted under F07A/0394, F14A/0190 and F14A/0363 shall be adhered to in full within this development except for the changes to the plans and particulars permitted under this application.

Reason: In the interest of proper planning and sustainable development.

3. Each unit shall be used as a single dwelling unit apart from such use as may be exempted for the purposes of the planning and development Regulations

Reason: In the interest of the proper planning and sustainable development of the area.

4. The additional windows proposed in the north-western elevation of Block D shall incorporate obscure glazing and shall be permanently retained in that form. The use of film is not acceptable.

Reason: In the interest of residential amenity.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. The developer shall pay to the planning authority a financial contribution of €7,919 (seven thousand nine hundred and nineteen euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

8. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

Paul Caprani
Planning Inspector

11th October, 2016.

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