



An
Bord
Pleanála

Inspector's Report PL06F.247867

Development	Modifications to approved development (PL06F.233854) to include alterations/modifications apartment type, the provision of an additional apartment and retention of permission for modifications undertaken.
Location	Warrenscourt, Warrenhouse Road, Baldoyle, Dublin 13.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F16A/0409.
Applicant	LDC Developments Limited.
Type of Application	Permission and Retention of Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant
Appellants	Brian and Susan Walsh.
Observers	None.
Date of Site Inspection	27 th April, 2017.
Inspector	Paul Caprani.

Contents

1.0 Introduction.....	3
2.0 Site Location and Description	3
3.0 Planning History.....	4
4.0 Alterations Sought under the Current Application . Error! Bookmark not defined.	
5.0 Proposed Development	4
6.0 Planning Authority Assessment	5
6.1. Decision	5
6.2. Internal Reports.....	5
6.3. Further Assessment by Planning Authority	7
7.0 Grounds of Appeal.....	7
8.0 Appeal Responses.....	7
9.0 Development Plan Provision.....	8
10.0 Assessment.....	9
11.0 Recommendation	11
12.0 Reasons and Considerations	12
13.0 Conditions	12

1.0 Introduction

- 1.1. PL06F.247867 relates to a third party appeal against the decision of Fingal County Council to issue notification to grant modifications to an approved and substantially completed development. These modifications include alterations to apartments including the subdivision of an existing duplex apartment to create an additional apartment, car parking provision, revisions to internal layout and external elevations. The grounds of appeal argue that the resulting development is different from that granted permission by Fingal County Council which has resulted in windows being of a larger size and scale which exacerbate overlooking.

2.0 Site Location and Description

- 2.1. The appeal site is located in the eastern side of the Warrenhouse Road which is the main road through Baldoyle (the R809) linking Baldoyle Main Street to the north with the Dublin Road which runs along the Clontarf Coast to the south (the R015). The site is rectangular in shape and has a stated area of 1.48 hectares. The site currently accommodates a two-storey rectangular block apartment building in the northern portion of the site (Warrencourt), this apartment block accommodates eight apartments together with the substantially completed development which is the subject of the current appeal.
- 2.2. The existing pedestrian and vehicular access to Warrencourt is provided off Warrengreen, a small cul-de-sac serving mainly suburban houses which runs along the northern boundary of the site. The southern portion of the site accommodates a part two/part three-storey newer apartment block which is contiguous to Warrencourt but faces westwards onto the Warrenhouse Road. This building has been substantially completed but has not been occupied. There are a number of dwellinghouses to the rear (east) on the recently constructed apartment block. The nearest dwellinghouse to the rear along the eastern boundary is No. 14B Warrengreen. This dwellinghouse and two adjoining dwellinghouses to the west, face onto a small cul-de-sac and runs along the southern boundary of the subject site onto the Warrenhouse Road. Lands between the rear elevation of the existing

and proposed apartments within the subject site and No. 14B accommodate off-street parking.

3.0 Planning History

3.1. Under Reg. Ref. F08A/255 and PL06F.233854 planning permission was granted for the following:

- The construction of a part two-storey/part three-storey extension to the existing apartments at Warrencourt comprising of 3 no. two-bedroomed units and 1 no. four-bedroomed unit. The proposed apartments range in size from 82.5 square metres to 184.5 square metres. The proposal also involved the relocation of the vehicular entrance from Warrenhouse Road to Warrengreen (along the northern boundary of the site) as well as ancillary works including landscaping, cycle shed and bin stores. Fingal County Council granted planning permission for the proposed development and this was subject to a number of third party appeals. On 27th January, 2010 An Bord Pleanála upheld the decision of the Planning Authority and granted planning permission for the proposed apartment development subject to 23 conditions.

4.0 Proposed Development

4.1. Planning permission is sought for the following modifications under the current application.

- Under the original application it was proposed to provide a four-bedroomed duplex unit (Apartment No. 4) on two levels at 1st and 2nd floor level. Under the current application it is proposed to separate this duplex unit into 2 no. two-bedroomed apartments, one on the first floor and one on the second floor both of which will have a floor area of 81.5 square metres.
- It is proposed to incorporate an elevator into the internal layout.
- It is proposed to replace the timber finish granted for the ground, first and second floor level with a rendered finish.
- It is proposed to replace the wall which is granted along the Warrenhouse Road with a new wall and railing along the boundary.

- It is proposed to reconfigure the car parking spaces to provide five car parking spaces to serve each of the apartments.
- It is proposed to provide five individual apartment storage units at the south-eastern corner of the site.
- The overall height of the building is approximately 0.4 metres higher than originally granted.
- The number of modifications to the internal layout of the development includes the incorporation of a lift from ground floor to first floor and second floor levels in order to comply with the Building Regulations.
- The proposal also includes minor modifications to elevations and fenestration at first and second floor level as well as new door opens at first and second floor level and a revised configuration of the gardening area at roof-top level.
- A new access is also provided to a semi-basement area plant room on the rear elevation.

5.0 Planning Authority Assessment

5.1. Decision

Fingal County Council granted planning permission subject to 12 conditions on the 15th December, 2016.

5.2. Internal Reports

- 5.2.1. The Water Services Section of Fingal County Council stated that there was no objection to the proposal. A report from Irish Water also stated that there was no objection subject to conditions.
- 5.2.2. A report from the Transportation Planning Section stated that there was no objection subject to three conditions.
- 5.2.3. A report from the Parks Planning Section states that a complete tree survey including an Arboricultural Impact Assessment in accordance with BS5837:2012 is

required. This information will help inform what type of boundary is suitable in the vicinity of the root system of these trees.

5.2.4. The original planner's report notes that the proposed development is considered to be acceptable in principle but a number of matters require clarification by way of additional information.

5.3. Additional Information Request

5.3.1. On 10th November, 2016 the following additional information was requested.

- The applicant was requested to submit a complete tree survey including an Arboricultural Impact Assessment in accordance with BS5837:2012.
- The applicant is requested to clarify the external finishes on the building.
- It is noted that the proposed north elevation drawings show windows on the side elevation of the existing apartment building which are not in place on site. The applicant is requested to submit a revised north elevation drawing addressing this.

5.3.2. Further information was submitted on behalf of the applicant on 25th November, 2016. It is summarised below.

- The applicant attached copies of the original report submitted to the Planning Authority which sets out a complete tree survey including an Arboricultural Impact Assessment. It should be noted that the proposed boundary treatment on Warrenhouse Road will not exceed 0.9 metres in height and will be constructed on the same line as the protective fencing shown on the drawing attached (Drawing No. 0193-RPA-03).
- With regard to the external finishes, it is stated that a proposed timber finish will be replaced with brickwork throughout the new block. Concerns were expressed with the weathering effect of the timber because of the site's coastal location.
- Details of the type and colour of finish proposed for the existing two-storey apartment block is indicated in Drawing CM13-50 No. 3.
- The revised north elevation is indicated on Drawing No. CM13-50 No. 5.

5.4. Further Assessment by Planning Authority

- 5.4.1. Reports were received from the Transport Planning Section, the Parks Planning Section both of which did not object to the proposed development. A further planner's report states that the applicant has satisfactorily addressed the concerns of the Planning Authority and it is therefore recommended that planning permission be granted subject to conditions. In its decision dated 15th December, 2016 Fingal County Council granted planning permission for the proposed development subject to 12 conditions.

6.0 Grounds of Appeal

- 6.1. An appeal was lodged to the Board by the occupants of No. 16 Warrenhouse Road, Baldoyle. The grounds of appeal are outlined below.

- The resultant development which is being constructed on site is different from the permission granted by An Bord Pleanála in 2010.
- Changes have been made to the number and sizes of the windows on the eastern elevation and two large windows/doors on the ground and first floors have been built in clear contravention of the original permission granted. It is also anticipated that a balcony will be erected on the first floor eastern elevation.
- The windows on the angled projections of the eastern elevation are dramatically larger than indicated in the original application. As a result, considerable overlooking results.
- The appellants also challenge the increase in the number of apartments and the positioning of the storage sheds along the eastern boundary of the site.

7.0 Appeal Responses

7.1. Planning Authority's Response to the Grounds of Appeal

The Planning Authority remains of the view that the proposal is acceptable and would not give rise to any significant adverse impacts on the visual amenity of the surrounding area nor would it give rise to any adverse impacts on neighbouring amenity. The balcony is proposed at first floor level on the eastern elevation but will

be sited 6 metres from the rear boundary and will overlook the driveway of the adjoining dwelling to the east. 1.8-metre-high obscure glazing screens will be erected on either side of the balcony and as such, it will not result in any significant adverse impacts in terms of overlooking. The windows in angled projections are not larger than indicated in the original application and the proposal does not give rise to overlooking of adjoining properties. The increase in the number of apartments and the storage shed do not give rise to any adverse impacts on adjoining residential amenity. Any deviations from approved plans will be the subject of an enforcement investigation by the Council.

7.2. Applicant's Response to the Grounds of Appeal

It appears that a response was not submitted by or on behalf of the applicant in respect of the grounds of appeal.

8.0 Development Plan Provision

- 8.1. The site is located on lands zoned RS – *'to provide for residential development and protect and improve residential amenity'*.
- 8.2. In terms of residential standards for apartment development, it is stated that residential development should be of high quality design and site layout, having due regard to the character and amenities of the area. Furthermore, it is essential that apartment development should provide a mix of units to cater for different size households.
- 8.3. **Objective DMS20** requires the provision of a minimum of 50% of apartments in any apartment scheme be dual aspect. **Objective DMS24** requires that new residential units comply with or exceed minimum standards set out in Tables 12.1, 12.2 and 12.3 of the plan. In the case of one and two bedroomed apartments, the minimum gross floor area shall be 45 square metres and 73 square metres respectively with minimum storage areas of 3 square metres and 6 square metres respectively.

9.0 Planning Assessment

I have read the entire documentation on file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal. I propose to address each of the issues raised by the appellants in the grounds of appeal below.

9.1. The development is different to that granted by An Bord Pleanála under PL06F.233854

It is clear that a number of modifications and alterations have taken place on site. Part of the current application seeks retention for the modifications implemented. These include the incorporation of an internal layout to include a passenger lift from ground floor to first and second floor level. These modifications are, according to the information submitted with the original documentation, to comply with Part M of the Building Control Regulations. They involve minor modifications to the internal layout which in my opinion have no major bearing in terms of the impact on the appellant's amenity.

Modifications to elevations including revised fenestration at first and second floor levels. Again having consulted the drawings I consider these modifications to be minor and will have no major impact on the amenity of the area in terms of aesthetics.

Other modifications include the incorporation of new door openings at first and second floor level within the internal layout and a revised layout of the garden area at second floor level. The small revisions to the garden area are to allow for separate private open space for the additional apartment.

The last modification relates to the provision of a new access to a semi-basement area beneath the north-eastern corner of the building. This is a requirement of the utility providers. Again this modification is minor and will have no bearing on the appellants' amenity.

It is clear therefore that a number of modifications have taken place and these have been identified and have been the subject of the current application for retention of planning permission. These modifications should be evaluated on their merits and in accordance with the proper planning and sustainable development of the area. I do

not consider that any of the modifications sought under the current permission results in a significant impact on the appellants' amenity or the amenity of other persons in the vicinity.

9.2. Changes have been made to the number and size of windows on the eastern elevation.

- 9.2.1. This does not appear to be the case. Having inspected the site, I note that the windows in question are of approximate size to those indicated in the drawings submitted. The Board will note that the drawings of the east elevation which show the windows in question at a 45 degree angle therefore, when viewed straight on as in the case of the drawings submitted, the windows would look narrower on the drawings than what is actually constructed on site. It appears the windows on the eastern elevation at first, second and third floor level have been constructed in accordance with the drawings submitted.
- 9.2.2. It is also argued that two large windows/doors on the ground and first floors have been built in clear contravention of the original permission granted. Again I refer the Board to the original drawings granted planning permission by the Board and contained on file. They clearly indicate the provision of large windows and doors on the ground floor and it appears from my site inspection that the development has been carried out in accordance with these drawings. If any discrepancies do exist, which are considered to be material in nature, these discrepancies can be the subject of enforcement proceedings. However, this is matter for Fingal County Council as the enforcement authority and not An Bord Pleanála.
- 9.2.3. Finally, the grounds of appeal challenge the increase in the number of apartments and the positioning of the storage sheds along the eastern boundary of the property. The proposed development in this instance seeks a subdivision of the proposed duplex four-bedroomed apartment at second and third level. This was predicated on the grounds that there appears to be no market demand for such a large unit within the existing block. The intensification arising from the increase in the number of apartments from 4 to 5 would be slight and the applicant has provided an additional car parking space in order to cater for the additional unit proposed. It is reasonable in my view that the applicant be permitted to alter and where appropriate increase the number of units in order to cater for market demand provided that such an increase

does not have any material impact on planning terms. I would consider that the marginal increase in the number of units from 4 to 5 will have no impact on surrounding residential amenity. It can be reasonably argued that, subject to qualitative safeguards, serviced brownfield sites within existing built-up areas should have their development potential maximised in order to create more efficient land use at sustainable densities.

With regard to the proposed storage units, it is appropriate in my view that sufficient storage space is provided for each of the units proposed. The units in this instance which are to be located adjacent to the south-eastern boundary are modest in size rising to a maximum height of 2.85 metres. They will in no way impact on the appellants' amenity or the general visual amenities of the area.

In conclusion therefore I consider that the proposed alterations sought under the current application together with the modifications which have been undertaken and for which retention of planning permission is sought, are acceptable and in no way result in a development which would adversely impact on surrounding residential amenity over and above that permitted on site and in no way adversely impact on the visual amenities of the area. I therefore recommend that An Bord Pleanála uphold the decision of the Planning Authority and grant planning permission and retention of planning permission for the alterations and modifications sought.

10.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the 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 other plans or projects on a European site.

11.0 Decision

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

12.0 Reasons and Considerations

Having regard to the residential zoning objective for the site it is considered that the proposed alterations and modifications for which planning permission and retention of planning permission is sought, subject to conditions set out below, will not seriously injure the residential or visual amenities of the area, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 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 plans and particulars received by the planning authority on the 25th day November 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. 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.

3. The proposed external finishes to the apartment block shall be as indicated on drawing no. CM-13-05 No. 3, CM-13-05 No. 4 and CM-13-05 No. 5 received by the planning authority on 25th day of November, 2016 unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

4. All necessary measures shall be undertaken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of construction works.

Reason: To protect the amenities of the area.

5. The parking for the development shall be provided in accordance with a detailed parking layout which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. No parking spaces shall be used for any other purpose not directly related to the development and no car parking space shall be sold, leased or licenced or sublet in connection with any other purpose.

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

6. The boundary wall to the Warrenhouse Road shall not exceed 900 millimetres in height.

Reason: In the interest of visual amenity.

7. The applicant shall comply with the requirements of the Parks and Green Infrastructure Division of Fingal County Council as follows:

(a) Prior to the construction of the boundary wall around the perimeter of the site the developer shall provide details for the written agreement of the planning authority as to how this wall and the proposed disabled car parking space can be provided without causing significant damage to the roots of adjoining trees.

(b) The trees noted for retention in the Tree Report submitted with the application shall be protected during the course of works in accordance with the provisions of BS5837:2012. Prior to the commencement of

development on site, the applicant shall agree in writing with the local authority the precise location of protective fencing and other tree protection measures during the course of the works. Before the submission of this information, a site meeting shall be arranged between the Council and the appointed arboricultural consultant to agree tree protection measures.

(c) All works on trees shall follow the proper Arboricultural techniques conforming with BS3998:2010.

(d) A tree bond of €2,500 is to be lodged with the Council prior to the commencement of development in order to ensure that trees are protected and maintained in good condition throughout the course of the development. This bond will be held by Fingal County Council for a period of three years post construction which may be extended in the event of possible construction related defects.

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

8. The proposed storage sheds shall be used solely for the use incidental to the enjoyment of the apartments and shall not be sold, rented or leased independently of the apartments and shall not be used for the carrying out of any commercial activity, trade or business.

Reason: In the interest of orderly development and to protect the amenities of the area.

9. Site development and building works shall be carried out between the hours of 0800 to 1900 hours Mondays to Fridays and 0800 hours to 1400 hours on Saturdays and not at all on Sundays or Bank Holidays. Deviations from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of the area.

10. The developer shall pay to the planning authority a financial contribution of €594 (five hundred and ninety four 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.

Paul Caprani,
Senior Planning Inspector

8th May, 2017.