



An  
Bord  
Pleanála

## Inspector's Report PL29S.247868.

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### Development

Amendments to previous (PL29S.234927), for provision of roof gardens, internal amendments to apartments, new stair access and associated site works.

### Location

Lands at Marianella, 75 Orwell Road, Rathgar, D 6.

### Planning Authority

Dublin City Council.

### Planning Authority Reg. Ref.

4001/16.

### Applicant(s)

Cairn Homes PLC.

### Type of Application

Permission.

### Planning Authority Decision

Grant.

### Type of Appeal

Third Party.

### Appellant(s)

Rathgar Residents' Association

### Observer(s)

Brian and Imelda Beausang.

### Date of Site Inspection

03<sup>rd</sup> of April 2017.

### Inspector

Karen Hamilton.

## 1.0 Site Location and Description

- 1.1. The site is located along the main Orwell Road, Rathgar, Dublin 6. The site is to the west of St Luke's Hospital and south of St John of Gods. Two storey dwellings along Orwell Road back onto the south of the site and directly opposite the site, separated by a public green, is Rostrevor Terrace, large Victorian style dwellings which are protected structures.
- 1.2. Construction works in relation to a 7-year permission for 209 no apartment buildings, PL29S.234927 (Reg Ref 2186/09) is currently at an advanced stage with Block A and B constructed externally to ridge level and works underway for Block C.

## 2.0 Proposed Development

- 2.1. The proposal includes amendments to planning permission PL29S.234927 (Reg Ref 2186/09) for residential and crèche development, and includes the following:
  - Additional sunrooms and roof terraces/ gardens to permitted apartment blocks A, B and C to serve the apartments at fourth floor.
  - Provision of a stair and lift access enclosures on the roof.
  - Internal amendments to the permitted apartments of fourth floor level of blocks A, B and C to provide stair access to roof level.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority issued a Notification of Decision to Grant Permission subject to 7 conditions, those of note include:

C 3: The proposal shall be linked to planning reference PL29S.234927

C 7: Compliance with British Standard 5228 for noise control during construction.

#### 3.1.1. Planning Reports

The report of the area planner reflects the decision to grant permission and refers to the Buildings Height Policy in Section 16.7.2 of the development plan.

### 3.1.2. Other Technical Reports

Drainage Section: No objection.

### 3.2. Prescribed Bodies

None.

### 3.3. Third Party Observations

Two observations were received and the issues raised have been addressed in the grounds of appeal.

## 4.0 Planning History

### **3326/16**

Permission granted for amendments to previous permission PL29S.234927 (Reg. Ref 3326/16) for amalgamation and reconfiguration of apartments in Block B and Block C with minor exterior alterations and reduction in permitted units from 211 to 209.

### **2902/16**

Permission granted for amendments to previous permission PL29S.234927 (Reg. Ref 3326/16) for provision of a private residential club house and amenity area at basement area to replace the plant rooms, provision of a bicycle access ramp, relocation of access ramp to Block A, relocation of ESB station, minor amendments to internal layout and fenestration other internal alterations in Block A and reduction in parking spaces.

### **2196/16**

Permission granted on site for 0.116 ha site for a single storey marketing suite of 186m<sup>2</sup> to include show apartment and associated facilities.

### **PL29S.234927** (Reg Ref 2186/09)

Permission granted for 7 years for 263no residential units, crèche and associated works.

## 5.0 Policy Context

### 5.1. Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DoEHLG)

**Quality Housing for Sustainable Communities** – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (DEHLG, 2007).

- Section 5.3.2: Space requirements and room sizes.

### 5.2. Dublin City Development Plan 2016-2022

The subject site is located with Z12 zoning for Institutional Lands (future development potential) where it is an objective to “*ensure existing environmental amenities are protected in the predominantly residential future use of these lands*”

- Residential activity is actively encouraged and a minimum of 20% of the site, will be required to be retained for public open space and shall not be split up. Section 16.10, standards for residential accommodation shall apply.

**Section 16.10:** Standards for Residential Accommodation.

- Section 16.10.1: Residential Quality Standards - Apartments.

**Section 16.7.2:** Height Limits and areas for Low-rise, midrise and Taller developments.

- Guidance for building heights within the area of Rathgar are limited to mid-rise of a maximum of 16m.
- Plant, flues and lift overruns should not be included in the height of the building, as long as they are set back and properly screened and do not significantly add to the shadowing or otherwise of natural light beyond that of the main structure.

The site adjoins Z2 conservation area and a row of protected structures, therefore the following policy applies.

**CHC4:** To protect the special interest and character of all Dublin’s Conservation Areas (11.1.5.4). Development within or affecting all conservation areas will

contribute positively to the character and distinctiveness; and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of appeal are submitted from the surrounding Residents' Association and may be summarised as follows:

- The increase in height from the “superstructures” is from 15.6m to 18.35m, eight on Block C, seven on Block B and eleven on Block A, occupying 30% of the available floor area.
- The proposal is against the required building height for apartment developments in the area (16m or 5 storeys).
- The submission from the applicant’s agent is incorrect, which states the proposed development is not visible from the surrounding areas and the restriction does not relate to minor structures on the roof level.
- Rathgar is a long established residential area and surrounding the site is Orwell Park, a Zone 2 Conservation area and protected structures. Policy in the development plan refers to the protection of these areas against inappropriate development and it is argued the proposed development will degrade the existing residential amenity.
- Reference to PL29S.247144, for the refusal of mobile phone aerials on top of Orwell Nursing Home as they would be unacceptable in terms of visual impact. Reference to PL29S.212938, no plant or antenna allowed on the roof and PL29S.223140 use of the roof space restricted.

### **6.2. Applicant Response**

A response has been received from an agent on behalf of the applicant which may be summarised as follows:

- The planning authority have considered the height in their assessment and considered these “pop up” roof gardens complied with the principles of development.
- The development plan allows for heights of up to 16m in low rise outer city locations. The small portion of the 16.9m is to accommodate roof lights. Section 16.7.2 of the plan states that plant, flues etc. should not be included in the height of the building as long as they are set back and properly screened. The proposed 18.3m falls under this section.
- The building height will remain at 15/16m.
- The proposed roof gardens are set back 69m from the rear elevations of the existing dwellings along Orwell Park and 95m from the front elevations of existing dwelling at Rostrevor Terrace.
- The initial development was considered acceptable within the Z2 zoning surrounding the site.
- The proposed pop up structures will occupy 17 % of the roof space and any additional area will be for the roof terraces.
- The proposed development will provide a valuable amenity for the residents.

### 6.3. Planning Authority Response

The report from the planning authority refers to the planner’s report.

### 6.4. Observations

One observation was received from the owners of a dwelling in Orwell Park which may be summarised as follows:

- Apartment Block A and Housing Block E are located in close proximity the dwelling.
- The roof terrace and stair enclosures will materially increase the height of the apartment block and as they are 30% of the area should not be considered as minor.

- The proposed development will cause visual roof clutter and human noise pollution.
- The proposal is contrary to the Boards decision under PL29S.212938.

## 6.5. Further Responses

None received.

## 7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Planning History
- Visual Amenity and Built Heritage
- Residential Amenity
- Other Matters
- Appropriate Assessment

### Planning History

7.2. PL29S.234927 (Reg. Ref 2186/09) is a 7-year permission for the redevelopment of a brownfield site, including the removal of a monastery and replacement with 263no apartments and 12no dwellings on a site. Subsequent permissions have been granted on the site for internal alterations and the reduction in the apartment numbers to 209 (3326/16), inclusion of a private club (2902/16) and internal and minor external modifications (3326/16). Construction work is currently underway on the site, with the dwellings along the south Block E and apartment Block A and B at an advanced stage. The parent permission was granted for a period of 7 years and did not include any further restrictions on height or use of the roof space for further development.

7.3. The grounds of appeal reference other Board decisions in the vicinity which they argue sets a precedence for a restriction of roof top structures. I have assessed PL29S.247144, PL29S.212938 and PL29S.223140, all of which relate to the redevelopment of Orwell Nursing home, a protected structure. Whilst I acknowledge reference and restrictions have been included in the roof area of these permissions, I

consider the characteristics and location differ from the subject site and as such the proposed development should be assessed on its own merits.

### **Visual Amenity and Built Heritage**

- 7.4. The flat roofed “pop up” structures on the roof of the apartment blocks are 2.6m in height and have metal framed windows on the elevation opening onto the roof terrace and metal cladding on the rear elevation. In addition to these structures for the stairwells and lifts, the proposed development includes 1m high glass balustrades around the proposed roof terraces. The grounds of appeal argue the inclusion of the additional height for these “pop up” structures are contrary to the Building Height restriction in the development plan and they will have a negative visual impact, particularly in relation to the protected structures and Z2 conservation areas in the vicinity, which I have assessed below.
- 7.5. Building Height: The height of the apartment block as granted is 16m which accords with the development plan required height for mid-rise development in the Rathgar area. The proposed development will increase the height to 18.6m. The proposed pop up structures are 2.6m in height and set back from the edge by approx. 4m. Section 16.7.2 of the development plan provides guidance for the development of taller buildings. The guidance states that *“Plant, flues and lift overruns should not be included in the height of the building, as long as they are set back and properly screened and do not significantly add to the shadowing or otherwise of natural light beyond that of the main structure”*. I consider the proposed development is analogous in scale and nature to this type of development referenced above and can be accommodated within the building heights specified for mid-rise development under Section 16.7.2 of the development plan.
- 7.6. Built Heritage: The site is located directly opposite Rostrevor Terrace, a row of dwellings which are protected structures. In addition, the site is bounded by dwellings zoned as Z2 conservation area. Policy CHC4 of the development plan requires that new development would respect the character and setting of the conservation areas and protected structures. I note the inclusion of townhouses along the south of the site separating apartment Block A from the existing dwellings within the Z2 conservation area and the distance of the apartments approx. 55m from the protected structures along Rostrevor Terrace. I also note the report of the



inspector in PL29S.234927 (Reg Ref 2186/09) does not regard the substantive development to have a negative impact on these residential amenities. Based on the scale and location of the proposed development I do not consider the proposed development would have a negative impact on the character and setting of the conservation area or protected structures in the vicinity of the site.

- 7.7. Streetscape: The applicant has submitted photomontages to illustrate the proposed development in the context of the overall permitted scheme. I note the main impact will be from the main Orwell Road, which I do not consider is significant enough to have a negative visual impact on the surrounding area.

### **Residential Amenity**

- 7.8. The proposed development includes 26 stairwells roof terraces for Blocks A (11), B (7) and C (8) and landscaping proposals include paved area for the terrace, planter boxes with trees and hedging. The grounds of appeal argue the inclusion of roof terraces will have a negative impact on the residential amenity of the surrounding residents by way of overlooking and overshadowing which I have addressed below.
- 7.9. Overlooking: The roof gardens in Block A are set back 69m from the rear elevations of the existing dwellings along Orwell Park and 95m from the front elevations of existing dwelling at Rostrevor Terrace. The private amenity space for the town houses in Block E is located on the south. I note the landscape plan submitted by the applicant and the type of trees proposed along the boundary of the roof terrace e.g. *Magnolia stellata* and *Olea europaea* can grow to between 3m- 9m with good coverage. I consider it reasonable to condition the inclusion of semi-mature trees. Therefore, subject to the distance from existing residents and the use of the planting scheme I do not consider there would be any overlooking from the proposed development.
- 7.10. Overshadowing: Shadow projection drawings were submitted with PL29S.234927 (Reg. Ref 2186/09) and I note the assessment of the inspector and the reference to the limited impact of the apartment blocks beyond the site boundaries. The proposed 2m high roof structures are set back a minimum of 3m from the edge of the apartment building, therefore I do not consider there would be any overshadowing on the properties of the surrounding residential properties.

## **Other Matters**

- 7.11. Development plan standards: The internal alterations refer to the inclusion of stairwells and lifts for in Apts 124-177 in Block C, Apts 72-120 in Block B and Apts 1-68 in Block A, for access to the roof terrace. The proposal does not amend the floorspace of the permitted apartments of fourth floor level and as such the proposed internal amendments are compatible with development plan standards and previous permissions.

## **Appropriate Assessment**

- 7.12. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance 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 the conservation objectives of any European site.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

## **9.0 Reasons and Considerations**

Having regard to the zoning objective, the nature and scale of the proposed development, the current use on the site and the policies of the current Dublin City Development Plan it is considered that subject to compliance with the conditions below, the proposed development would not seriously injure the residential or visual amenity of the area or have a negative impact on the character and setting of any conservation area or protected structure. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may

otherwise 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 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 landscaping scheme shown, as submitted to the planning authority and An Bord Pleanála on the 14<sup>th</sup> day of February, 2017 shall be carried out within the first planting season following substantial completion of external construction works.

In addition to the proposals in the submitted scheme, the following shall be carried out:

- a) All trees and hedgerows used in the planting scheme shall be semi-mature.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

3. Apart from any departures specifically authorised by this or other permissions, the development shall be carried out and completed in accordance with the terms and conditions of the permissions granted under appeal reference number PL29S.234927, planning register reference number 2186/09, and any agreements entered into thereunder.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permissions.

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Karen Hamilton  
Planning Inspector

24<sup>th</sup> of April 2017