



An
Bord
Pleanála

Inspector's Report PL06F 248097

Development	Amendments to F07A/0394, F14A/0190 and F14A/0363 to provide for 3 additional apartments in the to the 126 apartments that have the benefit of planning permission on site.
Location	Parkside Boulevard, Balgriffin Cottages Malahide Road
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F16A/0547
Applicant(s)	Shannon Homes Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party v grant
Appellant(s)	Brenda and Joe Doyle
Observer(s)	None
Date of Site Inspection	28 th April 2017
Inspector	Paul Caprani

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1.0 Introduction

PL06F.248097 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 three 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 result in a significant reduction in the size of the apartments etc. Reference is also made to a recent decision by the Board where planning permission was refused for a similar type development.

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 and external cladding is being incorporated onto each of the blocks. 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

- 3.1. Planning permission is sought for internal alterations to Blocks D and E to increase the number of apartments from 8 one-bed apartments 101 two-bed apartments and 17 three-bed apartments to 8 one-bed apartments, 104 two bed-room apartments and 17 three-bed apartments. A covering letter submitted with the planning application to the planning Authority states that the current proposal seeks to address the refusal issued by the Board under the previous application (PL06F 246736 -msee planning history below) where the Board ruled that the proposed reduction in 3-bed apartments was unacceptable.

3.2. Specifically, the following is proposed under the current application:

- Block D – 4th Floor, the reconfiguration of internal layout from 2 no. 2-bed apartments and 3 no. 3 bed apartments to 2 no. 2-bed apartments and 4 no. 3 bed apartments
- Block E - 4th Floor, the reconfiguration of internal layout from 2 no. 2-bed apartments to 1 no. 2-bed apartments and 1 no. 3 bed apartment
- Block D – 5th Floor, the reconfiguration of internal layout from 2 no. 3-bed apartments and 3 no. 2 bed apartments.
- Block E – 5th Floor - the reconfiguration of internal layout from 1 no. 2-bed apartment and 2 no. 3 bed apartments to 2 no. 2-bed apartments and 2 no. 3 bed apartments.
- Overall this results in the replacement of 5 no. 2-bed and 7 no. 3 bed apartments to 8 no. 2 bed units and 7 -no. 3 bed units.
- An additional 5 car parking spaces are provided at basement level to facilitate the increase in the number of units.
- It is respectfully requested that the shortfall in public open space can be levied by way of a financial contribution condition.
- The applicants are in negotiation with the Housing Department of Fingal Co Council with regard to Part V requirements.

4.0 Planning Authority Decision

4.1. Decision

Fingal County Council granted planning permission subject to 6 conditions.

4.2. Planning Authority Reports

A report from the Water Services Department stated that there was no objection subject to conditions

A report from the Transportation Planning Section stated that there was no objection subject to provided additional cycle spaces.

A report from the Parks Department notes the shortfall in public open space and states that a financial condition in lieu of this open space should be conditioned.

The Planners Report sets out the extensive planning history associated with the subject site and details the alterations proposed and the internal reports received in relation to same. The report assesses the proposal in the context of

- compliance with development plan policy
- Visual and residential amenity
- Open Space
- Parking and
- Part V.

The proposal was assessed in terms of Design Standards for New Apartments. In terms of size, it notes that the aggregate bedroom area in 4 of the apartments are slightly below the standards set out in the Guidelines (between 0.2 sq.m and 2.8 sq.m). In terms of altering the density and the apartment mix proposed in the impact is deemed to be negligible. Likewise, the impact on the visual and residential amenity is negligible. It is noted that the apartments are dual aspect and have adequate amenity space. Parking provision is acceptable as is a financial contribution in lieu of open space. Part V issues can be addressed by way of condition. It was therefore recommended that permission be granted for the proposed alterations.

4.2.1. Other Technical Reports

A report from Irish Water stated that there is no objection.

4.3. **Third Party Observations**

An observation was received by the current 3rd party appellants the contents of which has been read and noted.

5.0 Planning History

- 5.1. 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 and PL06F 246736. The Board will note that none of the files referred to below are attached to the current file. The most relevant planning history is summarised below.
- 5.2. The parent application relating to the site is Reg. Ref. 50A/1333 (An Bord Pleanála Reg. Ref. PL06F.215382). 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.
- 5.3. Under F07/0167 amendments were made to this parent permission.
- 5.4. 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.
- 5.5. 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.
- 5.6. PL06F.242409 (Fingal County Council Reg. Ref. 13A/0204), this file 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.

5.7. The most recent file relating to the site is the most relevant PL06F 246736. An Bord Pleanála overturned the decision of Fingal Co Council and refused planning permission for, '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'.

5.8. The Board refused permission for the following reason;

'The proposed development involves a reduction in the percentage of three bedroom units within Blocks D and E from 13.5%, as permitted to 7.5%, as proposed. The Board considered that the proposed development would represent an unacceptable diminution of the number of three bedroom units within the development and would, therefore, fail to provide an appropriate mix of unit types within the overall development contrary to the provisions of policy RD04 of the current Development Plan for the area and contrary to demographic projections contained in "Sustainable Urban Housing: Design Standards for Apartments Guidelines for Planning Authorities" issued by the Department of the Environment, Community and Local Government in December 2015. The proposed development would, therefore, lead to an unacceptable housing mix and would not be in accordance with the proper planning and sustainable development of the area'.

6.0 Policy Context

6.1. Development Plan

6.2. The site is governed by the policy and provisions contained in the Fingal County Development Plan 2017-2023. The site is located on lands zoned RS – 'to provide for residential development and protect and improve residential amenity'.

6.3. 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.

6.4. **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. In the case of 3 bed apartments the minimum gross floor area is 90 sq.m with 9 metres storage area. The same standards are contained in the DECLG *Sustainable Urban Housing 'Design Standards for New Apartments (December 2015)'*.

6.5. Natural Heritage Designations

There are no designated areas within or immediately adjacent to the subject site.

7.0 The Appeal

7.1. Grounds of Appeal

- An Appeal was lodged by local residents of Balgriffin, Brenda and Joe Doyle. The grounds of appeal are outlined below.
- The Board have recently refused a similar application for an increase of the number of units at this location.
- The applicant is attempting to increase the number of units by decreasing the size of numerous apartments. The applicant fails to highlight this in the application submitted. The effect on the residents in the adjoining apartments will be considerable.
- The proposal will result in a considerable shortfall in open space. The amount of €7,836 in lieu of open space is not sufficient.
- The proposal results in apartment sizes that are below the minimum room sizes set out in the guidelines.
- The increase in density, albeit marginal, is not acceptable as a density of 80/81 units per ha is too high in the first instance.
- It is stated that the development as built is in breach of the drawings submitted specifically reference is made to the window on the western gable of Block D and the configuration of the ground floor in Block D and E. The

Inspector report on this appeal is requested to inspect the internal configuration of the ground floor rooms in this blocks.

- Concern is expressed that the riparian strip along the River mayne has been wilfully neglected.

7.2. Applicant Responses

- With regard to the contention that the proposal represents an unacceptable housing mix, it is stated that there is no reduction in 3 bed units and therefore, no material impact on the percentage of 1,2 and 3 bed units proposed. The Boards attention is also brought to the wider development within the curtilage of the site which includes St Doolaghs which provides 78 no. 3 & 4 bed houses.
- The change in density arising from the proposal is marginal.
- With regard to apartment sizes and standards it is stated that a Housing Quality Assessment was submitted with the application, it is respectfully requested that this be consultant and it is argued that these documents demonstrate that a high standard of accommodation is provided in the current application.
- It is respectfully suggested that the issue regarding public open space can be addressed by way of a contribution in lieu.

7.3. Planning Authority Response

- The development was assessed in the context of the plans and provisions of the newly adopted Fingal Development Plan 2017-2023. The planning authority are of the opinion that the proposal would be consistent with the policies contained therein or the proper planning and sustainable development of the area.
- The concerns set out in the appeal have been properly considered in the planning report and it is considered that the proposal is in keeping with the already approved development and the pattern of the development in the

area. Furthermore, it is considered that the proposal will not detract from the residential amenity of the area.

- The Board are therefore requested to uphold Fingal Co. Council's decision and in particular conditions 4,5 & 6 of the decision

7.4. **Observations**

- There are no observations on file.

8.0 **Assessment**

8.1. I have read the entire contents of the file, visited the site and its surroundings and have had regard to the specific issues raised in the grounds of appeal. I consider that the pertinent issues in dealing with the current application and appeal are:

- Proposed Unit Mix
- Density
- Public open space provision
- Apartment sizes and standards
- Non-compliance with existing permissions.

8.2. **Proposed Unit Mix**

An over-reliance smaller units and a lack of 3-bed units formed the basis for the Board's reason for refusal in the case of PL06F 246736. The Board noted that under the previous application that the overall number of 3-bed units was reduced from 13.5% to 7.5%, or almost halved in the previous application. In the case of the current application the number of 3 bed units has been maintained at 17 units and the total proportion of 3-bed units has been reduced from 13.5% to 13.2%. While the proposal results in an incremental change away from a higher proportion of larger units, I would be inclined to agree with the planning authority that the change under

the current proposal is negligible, and does not constitute reasonable grounds for refusal.

8.3. **Density**

In terms of density, I would also conclude that in generally terms the increase in density is negligible and will result in an increase from 80 units per hectare to just less than 81 units per hectare, an increase in one unit per Ha. The proposal therefore will not result in any material intensity of development on site.

The Board will however have to balance the requirement, of the goals in 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 and the need to maintain appropriate residential standards. While it can be argued that the proposed provision of additional units without any consequential increase in the size and scale of the development is fully in accordance with the overall objectives of the Action Plan, it can be equally argued that such an increase in unit should not be at the expense of compromising the standard of living accommodation within the development.

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. Any increases in density could probably be justified on the grounds of good public transport links. I do acknowledge however that the provision of 81 units is considerably higher than the 50 units per ha referred to in the Guidelines.

8.4. **Open Space Provision**

The Board should in my view, deliberate carefully as to whether or not it is appropriate to incrementally increase densities without commensurate provision for open space. While the action plan for housing seeks as a matter of urgency to build more residential units, this should not be at the expense of quality of layout. Where open space cannot be provided on site, it is questionable whether or not is it

appropriate to incrementally increase the number of units and addressing any shortfall in open space standards paying financial contributions in order to address this shortfall.

8.5. Apartment Sizes and Standards

This issue in my view is perhaps the most critical issue in determining the current application and appeal. The local authority planner’s assessment points out that a number of apartments have aggregate bedroom sizes that are less than the stipulated requirements set out in the National Guidelines on Design Standards for New Apartments. The shortfall is set out on the table below:

National Standards	Minimum Aggregate bedroom floor areas (sq.m)	Apt 13 2- bed	Apt 23A 3-bed	Apt 65 2-bed	Apt 66 2-bed
1 bed	11.4				
2 bed	24.4	23.8		21.6	23.3
3 bed	31.5		31.3		

It is again questionable in my view whether the Board should permit a subdivision of permitted units, in order to provide additional units, where the resultant layout does not meet the minimum standards in terms of bedroom size. I consider that the grounds of appeal have highlighted a valid concern in that the increase in the number of apartments to be provided within the existing floor-space of the building has resulted in the provision of smaller apartment sizes. While the principle of smaller apartment size may in general be acceptable, they should comply with the minimum standards in Guidelines. It appears that in this instance the proposal has resulted in configurations which do not meet the minimum standards set out in the national guidelines for planning authorities.

8.6. **Non-Compliance with Existing Permissions**

The grounds of appeal have specifically requested that the inspector in carrying out the case currently before the Board, investigate whether or not the development is being carried out in accordance with the permission granted under previous application. In this instance the specific issues relate to the window configuration on the western gable of block D and the ground floor layout configuration of blocks D and E. Concerns are also expressed that the riparian strip of open space along the River Mayne is being neglected. I did not enter the site on the day of my site inspection as construction works are being undertaken and works have yet to be completed on site. More importantly any non-compliance issues are a matter for Fingal Co Council as the enforcement authority and not a matter for the Board. Thus any concerns that the developer is in non-compliance with the permission granted should be brought to the planning authorities attention in the first instance.

9.0 **Recommendation**

9.1. What is proposed in this instance is a number of modifications to a permitted development which will result in a slight increase in the number of units proposed for 126 units to 129 units or a c.2% increase. The proposal will have a negligible impact in terms of unit mix, density, building height and open-space requirements etc. Nevertheless, it will result in a development which accommodates smaller units, some of which do not comply with National Standards for aggregate bedroom sizes. I would be reluctant to recommend a grant of planning permission for modifications resulting in the increase in the number of units at the expense of the diminution in living space which results in non-compliance with standards. I therefore recommend that the Board uphold the grounds of appeal, overturn the decision of the planning authority and refuse planning permission for the proposed development for the reason set out below.

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 **Reasons and Considerations**

The proposed development involves a reduction in the size of a number of units within Blocks D and E. The Board considered that the proposed development would represent an unacceptable diminution of the size of some of the units within the development and would, therefore, fail to provide minimum aggregate bedroom floor areas for some of the apartments in accordance with the standards set out in the a “Sustainable Urban Housing: Design Standards for Apartments Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government in December 2015. The proposed development would, therefore, contravene these standards and would therefore not be in accordance with the proper planning and sustainable development of the area’.

Paul Caprani
Senior Planning Inspector

25th May 2017