



An
Bord
Pleanála

Inspector's Report PL29N.248287

Development	Addition of fourth floor to apartment block providing for 3 no. three-bedroom apartments (within the curtilage of a Protected Structure)
Location	Block B, Shieling Square, Howth Road, Raheny, Dublin 5
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2040/17
Applicant(s)	October Management Limited
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Maywood/Bettyglen Residents Action Group
Observer(s)	None
Date of Site Inspection	28 th June 2017
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located within a gated residential apartment complex on the south side of the Howth Road (R105), within an expansive and mature residential neighbourhood close to Raheny village. It is approximately 225m northeast of the coast and 7km northeast of Dublin city centre.
- 1.2. The apartment complex is laid out in a square arrangement around a landscaped courtyard, and includes the former Shieling Hotel, a Protected Structure, which has been converted to apartments (Block A). The three newer apartment blocks are each four-storeys in height with the appeal site solely relating to roof level of Block B, the southern block facing the Protected Structure.
- 1.3. The area in which the appeal site lies is generally characterised by mature, two-storey residential development, with housing along Maywood Grove comprising part-dormer style, two-storey semi-detached houses, while two-storey detached houses front onto Orchard Road to the east. To the southeast of the site is a green area forming part of the Maywood Grove/Bettyglen residential estate. To the northeast of the site is a fuel service station, accessed off the Howth Road.

2.0 Proposed Development

The proposed development comprises the following:

- Additional floor at fourth-floor level to apartment block, to comprise 3 no. three-bedroom apartments within the curtilage of a Protected Structure.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 14 conditions, the following of which are of note:

C2. Section 48 General Development Contribution;

C3. Enhanced privacy measures, such as 1.8m high screens to northern elevations;

C5. Allocation of one car park space per unit;

C8. Waste Management;

C14. Cash Deposit or Bond.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer reflects the decision of the planning authority. The Planning Officer noted that the proposed units meet relevant apartment standards, including amenity space requirements, and that measures could be introduced to mitigate against potential overlooking of neighbouring properties. In relation to building heights and the impact on the setting of the Protected Structure the following are noted:

- It is considered that the stepping of all floor levels especially to the west, set back provided by the open space to the south and seasonal tree cover will all help dissipate much of the potential over dominance of the extended Block B in relation to surrounding residences.
- While the Conservation Architect officer did not comment on the subject proposal they however, previously commented on the near identical predecessor as follows: The proposed increased height to Block B will not have a significantly detrimental impact on the setting of the protected structure which has already been flanked and faced by apartment buildings.

3.2.2. Other Technical Reports

- **Engineering Department – Drainage Division** - no objection subject to conditions;
- **Roads & Traffic Planning Division** – no report on file, but reference within Planner's Report stating comments were provided regarding parking quantum, requesting 1 car parking space is assigned to each unit.

3.3. Prescribed Bodies

- None.

3.4. Third-Party Submissions

- Submission received from 1 no. third-party and the issues raised are covered in the grounds of appeal listed below.

4.0 Planning History

4.1. Subject Site

4.1.1. Applications relating to the development and Protected Structure on site:

- E0015/16 – Planning Officer’s report refers to a **closed** (2016) Enforcement case regarding ‘Works taking place planning permission refused – Endangerment Removed’;
- 3669/15 – Permission **refused** (November 2015) for addition of 3 no. three-bedroom apartments to fourth floor of Block B. Refused based solely on height of Block exceeding the maximum 13m allowed under the Dublin City Development Plan 2011-2017;
- PL29N.238228 (DCC Ref. 3718/10) – Retention permission **granted** (April 2011) for extension of two-bedroom apartment B-31 to a three-bedroom apartment;
- 3515/09 – Split decision with retention permission **granted** (October 2009) for additional windows to Blocks A and C and retention permission **refused** for extension of two-bedroom apartment B-37 to a three-bedroom apartment;
- 4078/08 – Permission **granted** (November 2008) for modifications to Block B including 4 no. one bedroom units replacing 2 no. two-bedroom units, with condition 2 omitting proposals to add a fourth floor with 2 apartments to Block B;
- 1958/08 – Permission **granted** (June 2008) for modifications to residential development granted under Board Reference PL29N.220871 increasing the number of units from 68 to 74;

- Ref. PL29N.220871 (5067/06) – Permission **granted** (May 2007) for 68-unit apartment development in 4 blocks, including conversion of the Shieling Hotel to apartments:

Condition 1(iii) - Revisions to Block B that may include screening to roof gardens overlooking of adjacent residential property to east and west.

4.1.2. Historical applications relating to the subject site include:

- PL29N.211097 (DCC Ref. 5402/04) - Permission **granted** (October 2005) for three-storey apartment development over basement carpark with 24 no. apartments, roof garden and associated site works;
- 0468/02 - Permission **granted** (PL29N.130173 – withdrawn September 2002) for the removal of extensions to the Shieling Hotel and construction of a 36-bedroom extension and conference facility;
- PL29N.130172 (DCC Ref. 0459/02) – Permission **refused** (December 2002) for part two storey/part three storey apartment development over basement car park with 35 apartments and car parking;
- PL29N.116929 (DCC Ref. 0415/99) – Permission **refused** (August 2000) for demolition of Shieling Hotel and erection of new hotel and apartment development.

4.2. Surrounding Sites

Planning permissions in the area are reflective of the suburban character of the area and generally relate to applications of a domestic nature and scale.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The appeal site has a zoning objective 'Z1' 'Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022 with a stated objective "to protect, provide and improve residential amenities".

- 5.1.2. Section 16.7.2 of the Development Plan includes height limits for development, including a 16m restriction in the outer city relative to the prevailing local height and context.
- 5.1.3. Chapter 11 of the Plan provides guidance on development comprising or in the curtilage of Protected Structures. The curtilage of a Protected Structure is recognised as often an essential part of the structure's special interest and any development that has an adverse impact on the setting of a protected structure will be refused planning permission.
- 5.1.4. Policy CHC2 - To ensure that the special interest of protected structures is protected.
- 5.1.5. Section 16.10 provides standards for residential accommodation.
- 5.1.6. Under Policy QH1 of the Development Plan, the City Council will have regard to the Ministerial Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007); 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2015) and 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009).

5.2. **National Guidelines**

- Architectural Heritage Protection Guidelines for Planning Authorities (2004);
- Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The principle grounds of appeal can be summarised as follows:

- Building heights and scale are out of character with the existing pattern of development in the area;

- Proposals will impact on the residential amenities of neighbouring properties by virtue of the potential for overlooking, the overbearing appearance of the additional apartments and the overshadowing of neighbouring residences;
- Inadequate separation distances based on the Residential Density Guidelines;
- Scale of development is excessive in this area and this will have an over dominant effect to the detriment of property values and the visual amenities of the area;
- Absence of dedicated car parking spaces to serve the proposed new units;
- Proposals contradict a condition of a previous permission (DCC Ref. 1958/08), which required no further changes to the overall heights of the apartment blocks;
- Retention permission should have been sought as some works may have been commenced;
- Proposals are in contradiction to the zoning of the site, which seeks to protect existing residential amenity.

6.2. Applicant's Response

- Proposals provide for an acceptable density while protecting established residential amenities;
- Proposals replicate those included under Planning Ref. 3669/15, which were refused solely on the grounds of building height exceeding maximum Development Plan standards. The Council's Conservation Officer found that the increased height to Block B under 3669/15 would not significantly detract from the setting of the Protected Structure;
- The proposed height at 15.9m and below 16m is not substantial in the context of the revised Development Plan standards, design and site context;
- Appeal response is accompanied by Shadow Analysis Study which reveals that there will not be an overbearing impact on neighbouring properties nor will excessive overshadowing occur;

- Significant separation distances of 33m are achieved and proposals do not exacerbate the present situation regarding overlooking;
- Proposals meet Development Plan car parking standards when taking into consideration the entire apartment complex;
- Proposals are sympathetic to the Protected Structure, maintaining the original form of the development and improving the apartment mix with 3 additional three-bedroom units.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

6.5. **Appellant's Response**

- Applicant has failed to respond regarding certain matters raised within the grounds of appeal;
- The proposed development is on raised ground thus maximising its negative impact;
- Development is only 3 metres from the rear garden boundaries of the appellants' properties;
- Suspicion that works have been completed on site, as part of the development;
- Proposed development will affect the setting of the Protected Structure, as it will be over-dominant and will be visually incongruous when viewed from Howth Road and Maywood.

7.0 Assessment

7.1. Introduction

- 7.1.1. The grounds of appeal submitted by the residents to the south, primarily relate to issues of design, residential amenity and visual amenity, and I consider these to be the main issues in this case. The principle of developing additional apartments within this existing residential complex zoned 'Z1' for 'Sustainable Residential Neighbourhoods' is acceptable, subject to planning and environmental considerations outlined below.

7.2. Impact on Visual Amenities

- 7.2.1. The grounds of appeal argue that the proposed development would be out of character with the area and would be detrimental to the visual amenities of the area. It is noted that there are no designated scenic **views** which would be impacted by the development. In this respect, I note that only brief intermittent views of the additional floor would be available from neighbouring streets to the north and east including Howth Road, by virtue of the set back from the streets, mature trees and existing buildings, including the Shieling Square development itself. Views of the proposed development would be significantly constrained from locations immediately to the south of the site within the Bettyglen and Maywood Grove estate, by virtue of the seasonal tree cover within the green space and along the southern boundary with Shieling Square. The additional floor to the building would be most visible from within the Maywood Grove estate road approaching the site from the west. Computer-generated 3-dimensional images from four selected views were submitted with the Planning Application to illustrate existing and proposed views of the development site from Maywood Grove. Materials proposed primarily include zinc cladding to match the materials on the level directly below. In my opinion the additional floor, as set back from the primary building lines to Block B, would not appear overdominant or incongruous in the streetscape, so as to negatively affect the visual amenities of the area.
- 7.2.2. It is acknowledged that prevailing **building heights** in the area are generally single to two storeys with the exception of the Shieling Square complex itself. Furthermore,

it is noted that a planning application (Ref. 3669/15) for an almost identical development on site was refused by Dublin City Council because the cumulative building height in excess of 13m materially contravened the Development Plan (2011-2017). I note that a new Development Plan has since been adopted and that subject to certain limitations, this allows for increased building heights up to 16m for residential (and commercial) buildings in the Outer City, as opposed to the previous 13m restriction. The subject proposed development at 15.9m in height does not exceed the current height restriction, however, it is not suffice for a development to simply comply with the maximum height restrictions. Other factors such as impacts on residential amenities and control measures, as assessed below, need also to be considered.

- 7.2.3. The grounds of appeal also argue that the proposal represents **overdevelopment** of the site. I note that the position of the proposed additional residential units will not require additional landtake. As a guide in directing appropriate scales of development to certain areas of the city, the Development Plan requires that areas such as this (Z1-zoning) have a plot ratio of between 0.5 – 2.0. Resultant from the 324sq.m additional floor area added to the existing 7,802sq.m Shieling Square apartment scheme on a 0.78ha site, this results in a plot ratio of 1.0. In my opinion, the proposed development would not result in an excessive quantity of development on the site.

7.3. **Impact on Residential Amenities**

- 7.3.1. The grounds of appeal assert that the proposals will detrimentally impact on the residential amenities of neighbouring properties, as a result of **overlooking**, and that inadequate separation distances are achieved based on standards employed within the 'Residential Density Guidelines for Planning Authorities' (1999). In relation to separation distances I note that these will be less than the present separation distances from the floor below. Furthermore, while I acknowledge the previous use of specific minimum separation distances within the Residential Density Guidelines, it should be noted that these have been superseded by the Departmental guidelines 'Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities' and its accompanying 'Urban Design Manual'. The Urban Design Manual does not set rigid minimum separation distances, but does require that

habitable rooms and private amenity space should not be directly excessively overlooked by neighbouring residents.

- 7.3.2. I note that there are no windows proposed on the east or west elevations of the additional floor and access to the adjoining roof areas would be restricted. Windows and balconies for each of the units are proposed on the north-facing elevation into the courtyard and on the south-facing elevation onto Maywood Grove/Bettyglen. Having observed from the roof of Block B, I am satisfied that direct overlooking to the west from the northern elevation towards 19 Maywood Grove would be very much limited by the existing building, separation distances and a tree-lined boundary. Overlooking of the existing apartments including balconies in Shieling Square from the north elevation of the proposed units will be limited given the block arrangement. Views east to Orchard Road will be limited by the existing apartment blocks, separation distances and boundary trees. The south-facing living rooms and balconies overlook the public realm including the street and green space to Bettyglen estate as well as front gardens, with the closest residential building over 32m to the south at 61 Bettyglen. It is noted that the balconies to the third-floor level directly below are closer to properties to the south. Consequently, scope for excessive overlooking of dwellings to the south would not occur in my opinion.
- 7.3.3. I note that the planning authority has attached a condition requiring enhanced privacy measures, such as screens to be applied to the westside of the balconies. In my opinion the necessity for additional screening and enhanced privacy measures is not warranted. I do not consider that the proposed development would be likely to give rise to significant negative impacts on the residential amenities of adjoining properties by reason of overlooking.
- 7.3.4. The grounds of appeal assert that the proposed development would have an **overbearing** impact onto Maywood Grove and Bettyglen. It is noted that the primary views of the additional floor to the building will be from the eastern approach within the residential estate. Views of the proposed development from elsewhere within the estate will be largely screened by tree cover and the building itself. The additional floor to the building has been set back from the primary building line, and will be largely screened from view from the nearest residential properties. While the additional floor will be intermittently visible from within the estate to the south, it is

considered that the proposals will not have a significant visually overbearing impact given the set backs, separation distances, suburban context and existing screening.

- 7.3.5. The grounds of appeal assert that the development would result in excessive **overshadowing** of neighbouring properties. The applicants submitted a Shadow Analysis Study which they consider to reveal that excessive overshadowing would not occur. The subject Block B is located east of No. 19 Maywood Grove and west of No. 6 Orchard Road. This separation and positioning of the nearest dwellings and their gardens relative to Block B would not be substantially more than is currently experienced and would not readily lead to excessive overshadowing of these properties. The primary balconies to the Blocks C and A face internally onto the courtyard. As these balconies are directly south of Block B, the additional floor would not lead to excessive overshadowing of the balconies to Blocks C and A.
- 7.3.6. Analysis on the impacts of the proposed development on **sunlight and daylight**, specifically on those apartments to the north within Shieling Square was not submitted with the application. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas note that planning authorities should require that the recommendations of 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (Revised 2011) be followed. In my opinion, the additional floor would not result in significant change in the present baseline situation, whereby sunlight to the lower level apartments in Blocks A and C will be impacted by Block B. In the context of the orientation and surrounding pattern of development, the proposed development would not give rise to significant negative impacts on adjoining properties or on open space either in terms of overshadowing or loss of daylight and sunlight.
- 7.3.7. The Planning Officer's report on the application states that each of the proposed apartments substantially meet current Departmental **apartment standards** and provide adequate private open space. Marginal shortfall in the size of double-bedrooms (11sq.m) below the 11.4sq.m standard and constraints in providing additional communal open space, is compensated for by private amenity space well above standard. It is noted that the proposed additional units will provide for 3 additional three-bedroom apartments in the Shieling Square development and that this will provide for a greater mix of units within the complex.

7.4. **Impact on Protected Structure**

- 7.4.1. The grounds of appeal highlight concerns regarding the impact of the proposed development on the setting of the former Sheiling Hotel, a Protected Structure now forming Block D to the apartment complex. The proposed development is within the curtilage of this protected structure. In my opinion, the setting of the Protected Structure will not be significantly affected by virtue of the proposed additional floor to Block B, particularly as the setting has already been substantially altered via the addition of the three new apartment blocks within the curtilage of the Protected Structure. I conclude therefore that no serious impact will result on the setting or appearance of the Protected Structure as a result of the development.

7.5. **Other Matters**

- 7.5.1. The grounds of appeal raise issue with the absence of dedicated car park spaces to serve the new units. The subject site is located within Zone 3 of the Dublin Parking Area, where the maximum allowable car parking provision is 1.5 no. spaces per residential unit. The Shieling Square development was granted permission for 76 no apartments in total with 124 no. **parking** spaces, equating to a ratio of 1.63 spaces per unit. The proposed development does not provide for any additional parking on the site and will reduce the parking ratio to 1.56 spaces per unit. This matter was raised during the course of the application and the Roads & Traffic Division were generally satisfied with the development and I do not consider the development to be unacceptable in this regard, subject to attachment of a condition addressing same.
- 7.5.2. Having regard to the lack of a significant impact on the residential or visual amenities of property in the vicinity discussed above, there is no evidence to support the appellants' contention that the proposal would negatively affect property values in the area.
- 7.5.3. The grounds of appeal query whether works have already commenced on the subject proposed development. Breach of planning conditions and/or unauthorised development would be an enforcement matter for the planning authority and I am satisfied that the notices accurately described the proposed development.

8.0 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 **Recommendation**

I recommend that planning permission be **GRANTED** for the proposed development having regard to the reasons and considerations and subject to conditions as set out below.

10.0 **Reasons and Considerations**

Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity, the existing development on site and the policies of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would not detract from the character or setting of the adjacent Protected Structure. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 **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 external finishes of the proposed additional floor shall be the same as those of the existing apartment block in respect of colour and texture.

Reason: In the interest of visual amenity.

3. A total of 3 number car parking spaces shall be reserved to serve the proposed residential units. At least one clearly identified car parking space shall be assigned permanently to each residential unit and shall be reserved solely for that purpose.

Reason: To ensure that adequate parking spaces are permanently available to serve the proposed residential units.

4. Water supply and drainage arrangements, including the 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.

5. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for each apartment unit, shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure provision of adequate refuse storage.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400

hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: To protect the residential amenities of property in the vicinity of the site.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

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 of roads, footpaths, watermains, drains, 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 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 of the development.

9. The developer shall pay to the planning authority a financial contribution 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, as amended. The contribution shall be paid prior to 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Colm McLoughlin
Planning Inspector

28th June 2017