



An  
Bord  
Pleanála

## Inspector's Report PL06F.248978

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<b>Development</b>	Alterations to previously approved reg. ref F14A/0527 to include reconfiguration of approved first floor levels to Nos. 56, 57 & 58 Church Street and to replace 3 no. office units with 3 no. apartments, alterations to fenestration, façade and reconfiguration of ground floor.
<b>Location</b>	The site is located at 52-58 Church Street, Skerries, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	F17A/0285.
<b>Applicant(s)</b>	Moriarty Food Markets Limited.
<b>Type of Application</b>	Retention Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	David O'Toole.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	23 <sup>rd</sup> October 2017.
<b>Inspector</b>	Patricia Calleary.

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## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of c.0.71 ha is located in an urban context fronting onto Church Street in Skerries. The site as outlined within the redline boundary is broadly rectangular in shape and comprises the plots that properties Nos. 52 to 58 Church Street previously occupied as part of a terraced streetscape. Plot 59, adjoining the site, is also shown within the ownership of the applicant, as denoted by a blue-line boundary. The site also includes a two-storey supermarket premises, SuperValu, which occupies former plots Nos. 52, 53 and its entrance at plot No. 54.
- 1.2. Plot Nos. 55 to 58 previously comprised a terrace of houses with Nos. 55, 56 and 57 since demolished. House No. 55 has been rebuilt. Extensive car parking serving SuperValu is located to the rear of these smaller plots.
- 1.3. The site is bounded to the east by Church street, to the south by Tennis Court Lane, to the west by Tennis Court Lane and to the north by residential properties which look onto this lane. There is a primary school, St. Patricks Junior school, located west of this lane.

## 2.0 Proposed Development

- 2.1.1. The proposed development seeks alterations to a development previously permitted under planning reg. ref: F14A/0257. The main element of the alterations would comprise the replacement of office accommodation at first floor of Units Nos. 56, 57 and 58 Church Street with 3 no. two bedroom apartments. Alterations proposed to Nos. 56 and 57 would comprise changes to their front façades, revised fenestration to the rear, including introduction of balconies, as well as raised wallplate and ridge heights. Alterations proposed to No. 58 would comprise revisions to fenestration to the rear including added balconies similar to those proposed for Nos. 56 and 57.
- 2.1.2. The proposed development would also entail minor alterations to the retail units at ground floor level to provide for stairwells allowing for front and rear access to the three apartments at first floor level.
- 2.1.3. The proposals would also include the provision of off-street parking to serve the three apartment units, located in an area currently within the existing SuperValu car

park to the rear and also the provision of a small flat roofed building for refuse and bicycle storage.

## 2.2. Decision

2.2.1. The Planning Authority issued a decision to grant permission subject to 14 conditions, the following five of which are of note:

- **C2:** Conditions attached to Reg. Ref: F14A/0527 shall be complied with in full, save for any changes permitted herewith under this application;
- **C3:** The grant of permission relates to 3 no. residential units;
- **C7:** Specific car parking requirements are set out;
- **C8:** A number of requirements in relation to façade design are specified;
- **C12:** Development contribution in lieu of non-provision of public open space.

## 2.3. Planning Authority Reports

2.3.1. Initial Planning Report

The Planning Officer's report considered matters regarding development plan objectives, impact on residential amenity, impact on Architectural Conservation Area (ACA)/visual integration, Transportation issues/Water & drainage issues, third party submissions and impact on Natura 2000 sites. The following is a summary of the main points of the assessment:

- Development accords with the 'TC' zoning objective for the site and the development management standards. It also accords with the development plan policy in respect of development within ACAs and with national guidance;
- The proposal would offer a high level of amenity for future occupants and would not result in overlooking or overbearing onto adjoining properties;
- The proposed development would not unduly impact on the amenity of neighbouring property or take from the amenity of the surrounding areas or ACA;
- In relation to parking, the applicant has addressed the main reason for refusal under previous planning application reg. ref. F17A/0123.

2.3.2. A decision to grant permission was put forward.

### 2.3.3. Other Technical Reports

- Water Services Engineer – No objection subject to conditions;
- Transportation Planning – No objection subject to conditions;
- Conservation Officer – No objection subject to conditions.

### 2.4. Prescribed Bodies

- Irish Water – No objection subject to conditions.

### 2.5. Third Party Observations

2.5.1. Two observations were received from Tom Joyce and David O'Toole, both with addresses at Tennis Court Lane. The principal concerns raised in the observations include: impact on residential amenity, impact on the ACA, flood risk, parking and non-compliance with previous planning permission.

2.5.2. The Planning Officer noted the observations received and states that they were taken into account in their assessment of the application. I also note the contents which I have had regard to in my assessment of the appeal.

## 3.0 Planning History

3.1.1. There are numerous planning history files referenced in the Planning Officer's assessment. History considered most relevant and recent to this appeal include the following:

- **PL06F.248985 / F17A/0096** – This relates to a planning application which is currently on appeal. The development comprises retention of modifications to the two storey extension (north elevation) of the licenced convenience store occupied by SuperValu, including off-licence to include an increased depth of the extension by 450mm, omission of windows at first floor level, changes to elevational materials, a lift overrun, changes to roof profile from parapet to flat roof and rooflights, plant comprising 3 no, automatic openable vents on the roof of the extension together with the reconfiguration of the supermarket entrance lobby, and atrium at the rear of No.54 and 55 Church street, to facilitate the relocation of stair core and all ancillary works. (FCC Decision date 11<sup>th</sup> July 2017 and is **currently on appeal**);

- **F17A/0123** – Permission was **refused** by Fingal County Council for alterations to previously approved application Reg. Ref. F14A/0527. Proposed alterations consist of the reconfiguration of approved first floor levels to No. 56, 57 and 58 Church Street to replace three previously approved office units with three two-bedroom dual aspect apartments, each with a south-west facing balcony. Development also includes alterations to the design, bin and cycle store and parking in the rear supermarket car park. The reasons for refusal centered on the car parking proposals. (19<sup>th</sup> April 2017);
- **F14A/0527** – Permission **granted** by Fingal County Council for the construction of a two storey extension to the north elevation of an existing SuperValu supermarket to provide for additional retail floor space at ground floor and ancillary office storage and staff facilities at first floor. This element of the development spanned across plots No. 54 and 55. The development also included the provision of three ground floor retail units and three office units at first floor level across No.s 5, 57 and 58 Church street. An appeal to the Board under PL06F.245214 was subsequently withdrawn. (Final grant date 16<sup>th</sup> September 2015);
- **PL06F.238191 / F09/0580** – Permission was **refused** on appeal for a mixed-use development on a site of 0.7086 hectares. Reasons for refusal concerned around the demolition of 4 properties and the resultant loss to the historic character of Skerries and ACA. (6<sup>th</sup> July 2011).

3.1.2. The Planning Officer’s report includes further detail of planning history and also refers to a history of enforcement in relation to the application site, in particular **ENF.16/107A**, which relates to the appeal site.

## 4.0 Policy Context

### 4.1. Development Plan

4.1.1. The policies and provisions of the Fingal Development Plan 2017-2023 apply. The site is zoned ‘TC’ with a stated objective ‘to protect and enhance the special physical and social character of town and district centres and provide and or improve urban facilities’. The vision set out in the development plan under this land use zoning objective is to maintain and build on the accessibility, vitality and viability of the

existing urban centres in the county. The vision seeks to consolidate these centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses and to enhance and develop the urban fabric of these centres in accordance with the principles of urban design, conservation and sustainable development.

4.1.2. Objective Skerries 3 - Encourage mixed-use development and require where practicable that a residential component is included in redevelopment proposals within the designated town centre zone (TC).

4.1.3. The site is also located within the Skerries Architectural Conservation area (ACA) and as such, Objectives CH37, DMS158 and Table 12.11 are relevant, as set out below:

#### Objective CH37

- Seek the retention, appreciation and appropriate revitalisation of the historic building stock and vernacular heritage of Fingal in both the towns and rural areas of the County by deterring the replacement of good quality older buildings with modern structures and by protecting (through the use of Architectural Conservation Areas and the Record of Public Structures and in the normal course of Development Management) these buildings where they contribute to the character of an area or town and/or where they are rare examples of a structure type).

#### DMS158

- All planning applications for works in an Architectural Conservation Area shall have regard to the information outlined in Table 12.11.

#### Table 12.11

- Direction for Proposed Development within Architectural Conservation Areas. Changes and development within ACAs should be carried out in a manner sympathetic to its distinctive character and so the following should guide proposed new works within ACAs.

4.1.4. The 'Statement of Character' for Skerries states that 'new buildings should follow existing plot boundaries to retain the existing grain and where larger developments span across former individual boundaries, the original plot divisions should be

articulated in the volume of the new buildings, both to the front and rear'. Section 6.4.3 provides information on Church Street and Chapel Lane.

- 4.1.5. In respect of residential development, the following objectives contained within the development plan are relevant: DMS20 (min of 50% in any apartment scheme to be dual aspect); DMS89 (New residential units to comply with minimum standards set out in Table 12.1, 12.2 and 12.3); DMS89 (size of balconies to exceed size set out in Table 12.6); DMS36 (appropriate design for refuse storage); DMS37 (Maximum distance from front door to communal bin storage is 50m). Table 12.8 sets out the requirements for car parking.

## 4.2. National Guidelines

- 4.2.1. Sustainable Urban Housing: Design Standards for New Apartments for Planning Authorities 2015 (Department of Environment, Community & Local Government) sets out policy in relation to apartment development including minimum size and areas.
- 4.2.2. Architectural Heritage Protection: Guidelines for Planning Authorities 2011. Department of Arts, Heritage and the Gaeltacht sets out policy on the protection of architectural heritage. Section 6.2.5 requires that Planning Authorities consider the potential impact of development on the character of an Architectural Conservation Area (ACA) when determining an application.

## 4.3. Natural Heritage Designations

- 4.3.1. The site is located c.850m west of the closest point of the Skerries Island Special Protection Area (SPA) (Site Code: 004122), a designation afforded to the three islands located off the East coast of Skerries.

## 4.4. Cultural Heritage

- 4.4.1. St. Patrick's Church RC, a protected structure (RPS No. 0202), fronting onto Strand Street is sited opposite the appeal site to the east. This Protected Structure is listed as a 'detached early 20th century gable-fronted granite Roman Catholic Church and free-standing belfry of 19th century church.



## 5.0 The Appeal

### 5.1. Grounds of Appeal

5.1.1. An appeal was received by the Board from David O'Toole with an address at Carrowmore, Tennis Court Lane in Skerries. The following points are put forward in the grounds of appeal.

- Increased height and provision of apartments with balconies will directly overlook adjacent homes on Tennis Court lane and interfere with neighbouring privacy;
- Would be contrary to a previous decision which required a mix of single and two storey buildings to fit with the pattern of Church street;
- The proposed car parking location, bollards and bin stores will create a nuisance and generate unacceptable noise, particularly as the supermarket car park will be open for resident parking at day and night time and will decrease car parking available for supermarket shoppers.

5.1.2. In addition to raising concerns about the proposed development, the appellant also refers to issues of alleged non-compliance with previous planning permissions.

### 5.2. Applicant Response

5.2.1. A response to the third-party appeal was received from Hughes Planning and Development Consultants, on behalf of the applicant. The following is a summary of the response.

- Design amendments proposed contribute positively to Skerries ACA while allowing for a viable commercial development which would contribute to the commercial core of the town and provide synergies with the adjoining supermarket;
- The proposed development would result in a separation distance of between 44m and 47m to the two dwellings to the west at Tennis Court Lane including

47m of a distance to the appellant's residence, which is more than appropriate in an urban location;

- Preferred option is to provide parking for the residential units in the form of five car spaces in the adjoining car park. However, the applicant also notes condition no.17 attached to F14A/0527 which prevents deliveries between 10.00 pm and 8.00 am. Quantum of overall parking would not change from that permitted;
- Property No. 55 is not a protected structure and in any case the façade was reinstated in consultation with the Planning Authority and is not relevant to the proposed appeal.

### 5.3. Planning Authority Response

5.3.1. A response to the appeal was received from the Planning Authority and is summarised as follows:

- In relation to potential overlooking of adjoining residential properties, mitigation measures have been employed in the form of a screen on balcony number 3 which is satisfactory;
- Location of proposed bin store is considered acceptable;
- Design and form of development is considered acceptable and would not be detrimental to the character of the ACA;
- Car parking quantum and location is considered acceptable;
- Issues of non-compliance may be addressed through the planning enforcement process.

5.3.2. The Planning Authority requests An Bord Pleanála to uphold the decision of the Planning Authority and if permission is granted by the Board, requests that Condition Nos.13 (Bond/Security) and 14 (Development contribution) would attach.

### 5.4. Observations

- None

## **6.0 Assessment**

### **6.1. Introduction**

6.1.1. I have read the contents of the file, have had particular regard to the planning history associated with the appeal site and the grounds of appeal and I have also visited the site and its surroundings. The key issue in my opinion which the Board must have regard to in determining the current application and appeal, is whether or not the alterations proposed under the current application result in a diminution in surrounding residential amenity or undue loss of the character and setting of the ACA, over and above that associated with the grant of planning permission under Reg. Ref. F14A/0527. In that context, I consider the issues which arise include the following:

- Principle of the Development;
- Impact on Architectural Conservation Area;
- Impact on Residential Amenity;
- Transportation and Parking Considerations;
- Other Matters.

6.1.2. I have considered these issues under their respective headings below in the remainder of my assessment.

### **6.2. Principle of the Development**

6.2.1. The principle of the development on the site has been established under Planning Reg. Ref: F14A/0527 granted by Fingal County Council, which included permission for three ground floor retail units and three offices overhead at first floor level. The application and appeal now before the Board relate solely to changes to the previously permitted development. The parent proposal was considered acceptable under the 'TC' zoning and I equally consider the changes now proposed would align with this zoning objective, which supports a residential component in development within this zoning category. The design and layout accord with the standards in the Fingal Development Plan and the Sustainable Urban Housing: Design Standards for New apartments (2015 Guidelines). I concur with the Planning Authority that the

design, layout and access arrangements would offer a high level of residential amenity to future occupants. Given the limited size of the site, it is not feasible to provide public open space and a Section 48 financial contribution can instead be required by way of planning condition as is provided for under Section 9 of the Fingal County Council Development Contribution Scheme 2016-2020.

6.2.2. Under F17A/0123, permission was refused by Fingal County Council on 19<sup>th</sup> April 2017 for a very similar development to that currently proposed. Reasons for refusal centred around parking concerns and the Planning Officer considered that this issue has been satisfactorily addressed in the current proposal.

6.2.3. I am satisfied that the principle of the development is acceptable and I consider other planning criteria in the remainder of my assessment below.

### **6.3. Impact on Architectural Conservation Area**

6.3.1. The grounds of appeal assert that the development proposed would have an adverse impact on the traditional vernacular architecture of the street.

6.3.2. Having reviewed the design as permitted and the current proposals, I note in particular the varying building heights, proposals for maintaining historic plot widths and the detailing, windows and materials proposed, which collectively I consider would respect the historic design and fabric of the area while allowing for appropriate mixed use of the site. I also note the report received from Fingal County Council's Conservation officer who was satisfied with the proposals subject to conditions.

6.3.3. Overall, I am satisfied that the alterations proposed would not be unduly injurious on the visual amenities of the area or the ACA for Skerries and in that regard, permission for the alterations proposed should not be withheld.

### **6.4. Impact on Residential Amenity**

6.4.1. Concerns are raised in the grounds of appeal regarding potential for overlooking, which in turn would result in negative residential amenity.

6.4.2. The three apartments are well separated by a minimum of 44m from the neighbouring properties onto which they face. The first-floor balcony of apartment number 3 is proposed to be screened, which further addresses potential overlooking

from this apartment. The revisions do not include proposals to extend the depth of the building and as such no overbearing impacts would arise.

- 6.4.3. The proposals include a bin/bike store to the rear of the apartments at an accessible location, which I consider is acceptable and could not conceivably result in negative impacts on adjoining residential amenity.
- 6.4.4. Overall, having regard to the above and in the context of assessing the revisions to the development permitted under F14A/0527, I am satisfied that the revisions would not unduly impact on surrounding residential amenities for the reasons outlined above. Consequently, I recommend that permission should not be refused for residential amenity issues.

## 6.5. **Transportation and Parking Considerations**

- 6.5.1. The proposals include provision of five car parking spaces to the north of the application site. The spaces are proposed to be sited in a secure and accessible location and are designed in a manner so as to ensure they can be used solely for occupants which they would serve.
- 6.5.2. I note that the Transportation section of Fingal County Council considered the proposals acceptable save for the proposal for an additional car parking space adjoining the five proposed spaces along the north boundary of the site which it considered would give rise to visibility issues. The Transportation section considered this sixth adjoining car space should be omitted and that other configurations would improve the visibility. While it is noted that the car parking spaces are located within the SuperValu car park adjacent to the site which is closed overnight to prevent unauthorised vehicular access or access for deliveries, I concur with the Planning Authority's view that this practice of night time closing of the car park should continue and that residents could be provided with a fob/key or other such means to gain access for their use after the supermarket car park closes. I propose addressing this by way of a planning condition. It is of relevance to note that metered on-street parking is also available along Church Street.
- 6.5.3. Subject to addressing the details around parking by way of appropriate planning condition, no other transportation or parking issues arise and I recommend that planning permission should not be withheld for reasons of transportation or parking.

## **6.6. Other Matters**

- 6.6.1. The Planning Authority state that the applicant was granted a certificate of exemption under the provisions of Section 97 of Part V of the Planning and Development Act 2000, as amended.
- 6.6.2. Concerns are raised in the appeal about non-compliance with previous planning permissions. Issues of non-compliance are dealt with through an enforcement process which is a separate matter and function of the Planning Authority outside of the process for dealing with the merits of this application and appeal.
- 6.6.3. In relation to matters raised about flood risk, there is no evidence on the appeal file that the development is in a flood risk area. Having regard to the latest available OPW mapping, the area is not shown as being located in an area which is prone to flooding.

## **6.7. Appropriate Assessment**

- 6.7.1. Having regard to the nature and scale of the proposed development, and to 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 proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **7.0 Recommendation**

- 7.1.1. I recommend that permission should be granted, subject to the attached schedule of conditions, for the reasons and considerations set out under.

## **8.0 Reasons and Considerations**

- 8.1.1. Having regard to the provisions of the Fingal Development Plan 2017-2023, including zoning objective 'TC' and Objective Skerries 3, which encourage the inclusion of a residential element in redevelopment proposals, to the nature and scale of the proposed development which seeks alterations to a previously permitted development and to the pattern of development in the area, 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 or detract unduly from the character or setting of Skerries ACA, and would 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.

## 9.0 Conditions

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, 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. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on the 16<sup>th</sup> day of September 2015 under planning register reference number F14A/0527, 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 permission.

3. 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.

4. (a) The car parking spaces proposed to serve the apartments shall be reserved solely for use by the occupants of the apartments and / or visitors to the apartments. A revised site layout showing the provision of five car parking spaces shall be submitted and agreed with the planning authority prior to commencement of development. Spaces shall not be

sold separately, or let to avoid non-take-up of residents.

- (b) The practice of night time closing of the adjoining car park which serves the supermarket shall continue and arrangements shall be put in place to ensure occupants of the apartments can access the car spaces reserved for their residential parking after the car park closes.

**Reason:** To provide for suitable car parking for future occupants of the apartments.

5. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall comprise natural slate. Windows on the front elevation (Church Street) shall be up and down sliding timber sash windows. All rainwater goods shall be metal.

**Reason:** To protect the amenities of the Architectural conservation area for Skerries.

6. The developer shall submit the report of the consultant engineer on the structural condition of properties removed at No.s 55, 56 and 57 Church Street.

**Reason:** To protect the amenities of the Architectural conservation area for Skerries.

7. The management and maintenance of the proposed apartment development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of all communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

8. The developer shall pay to the planning authority a financial contribution in respect of **public infrastructure** and facilities benefiting development and in lieu of **open space** requirements 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 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.

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Patricia Calleary  
Senior Planning Inspector

31<sup>st</sup> October 2017