



An
Bord
Pleanála

Inspector's Report PL06F.248985.

Development	Alterations to previously approved reg. ref. F14A/0527 comprising retention of modifications to two-storey extension, reconfiguration of lobby and atrium and all associated works.
Location	at 52-58 Church street, Skerries, Co. Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F17A/0096
Applicant(s)	Moriarty Food Markets Limited.
Type of Application	Retention Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party.
Appellant(s)	Thomas Joyce.
Observer(s)	None.
Date of Site Inspection	23 rd October 2017.
Inspector	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. The development for which retention permission is sought includes alterations to development previously permitted under planning application reg. ref: F14A/0257 for the following elements:
 - (i) 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 three automatic openable vents on the roof of the extension and;
 - (ii) Reconfiguration of the supermarket entrance lobby and atrium at the rear of Nos. 54 and 55 Church Street, to facilitate the relocation of stair core and all ancillary works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority issued a decision to grant retention permission subject to five conditions, the following two 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:** Requirement for the submission of surface water proposals in compliance with the Greater Dublin Regional Code of Practice for Drainage works (April 2006).

3.2. Planning Authority Reports

3.2.1. Initial Planning Report

In the assessment of the planning application, the Planning Officer considered the following matters:

- Compliance with zoning and development plan objectives;
- Impact on residential amenity;
- Impact on Architectural Conservation Area (ACA)/visual integration;
- Transportation issues/Water;
- Water and drainage issues;
- Third party submissions;
- Impact on Natura 2000 sites.

A request for further information issued seeking the following:

- Clarification of reuse of brick from a demolished structure;
- Planning status of equipment and handrails on the roof;
- SuDS and surface water runoff details.

3.2.2. Final Planning Report

On receipt of the response to the further information request, the Planning Officer considered the outstanding issues had generally been addressed and that the

outstanding issue in relation to SuDS could be addressed by way of a planning condition. It was considered that the development proposed to be retained, by virtue of its scale and design does not impact on the neighbouring property or detract unduly from the amenity of the surrounding area or the Skerries ACA and therefore was considered to be in accordance with the proper planning and sustainable development of the area. A decision to grant permission was put forward.

3.2.3. Other Technical Reports

- Water Services Engineer – No objection subject to conditions;
- Transportation Planning – No objection subject to conditions;
- Conservation Officer – Following receipt of further information, no objection;
- Biodiversity Office – No objection (verbal report stated to have been provided on 3rd April 2017).

3.3. Prescribed Bodies

- Irish Water – No objection subject to conditions.

3.4. Third Party Observations

3.4.1. Two observations were received from Tom Joyce and David O'Toole, both with addresses at Tennis Court Lane, Skerries. Concerns were raised about the height of the building and excessive noise emanating from the automatic ventilation. Issues of non-compliance with the permission granted were also highlighted.

3.4.2. The Planning Officer noted the observations received and states that they were taking into account in their assessment of the application. I also note the contents which I have considered in my assessment of the appeal.

4.0 Planning History

4.1.1. 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:

- **PLO6F.248978 / F17A/0285** – This relates to a planning application which is currently on appeal. The development comprises reconfiguration of approved first floor levels to Nos. 56, 57 and 58 Church street and to replace 3 no. office

units with 3 no. two bedroom apartments at this level. Alterations proposed to Nos. 56 and 57 also comprise replacement of front facades, revised fenestration to the rear including introduction of balconies, new roofs with higher ridge heights. Alterations proposed to No. 58 generally comprise revisions to fenestration to the rear including added balconies. The proposals also include the provision of off street parking to serve the 3 no. apartment units to be located in the existing car park to the rear immediately adjacent to the proposed development as well as a small flat roofed building for refuse and bicycle storage.

- **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 Nos. 56, 57 and 58 Church street. An appeal to the Board under PL06F.245214 was subsequently withdrawn (Final grant date 16th 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 matters regarding the demolition of four properties and the resultant loss to the historic character of Skerries and the ACA (6th July 2011).

4.1.2. The Planning Officer's report includes further detail of the 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.

5.0 Policy Context

5.1. Development Plan

5.1.1. 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. Retail (Supermarkets) of size less than 2,500 sq.m net floor area are permitted in principle within this 'TC' use class.

5.1.2. 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.

5.1.3. 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.

- 5.1.4. In terms of Economic Development, the site is located in a Level 3: Town Centre, category, which can facilitate at least one supermarket and a smaller-scale department store to meet local needs.
- 5.1.5. In relation to the Fingal Retail strategy, it is the Council's stated policy to consolidate and enhance their retailing functions balanced with the wider range of leisure, community and civic functions they offer. Objectives ED42, ED43 and ED44 support the stated policy in provision of retail offer by consolidating and enhancing same in town centre locations. Objective ED43 is of particular relevance; 'Facilitate appropriately scaled improvements to the quantum and quality of retail offer and function in Balbriggan, Malahide, Skerries and Charlestown, and ensure their sustainable development by consolidating, intensifying and enhancing their existing core retail areas, and by directing new retail opportunities into the core retail areas identified for each'.

5.2. National Guidelines

- 5.2.1. 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.
- 5.2.2. 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.

5.3. Natural Heritage Designations

- 5.3.1. 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.

5.4. Cultural Heritage

- 5.4.1. 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.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was received by the Board from Thomas Judge with an address at Orca, Tennis Court Lane in Skerries. The following points are put forward in the grounds of appeal.

- Failure of Planning Authority to maintain planning standards in an architectural conservation area. Large number of retention applications;
- Proposals which have been reinstated have adverse impact on the traditional vernacular architecture of the street;
- Non-compliance with planning conditions a concern;
- Cooling fans positioned at the rear of the building and resultant noise have not been included in the subject application;
- Automatic ventilation in the roof create a major noise source and no sound barrier has been erected;
- Loss of vernacular architecture in the area is regrettable.

6.2. Applicant Response

6.2.1. 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.

- Permission was granted for the parent development and due to structural issues that arose during construction, minor changes resulted, which are now the subject of regularisation through this application and appeal;
- Works including compliance with conditions are being implemented;

- The elevational treatment on Church Street is largely indistinguishable from the parent permission save for the supermarket extension being 45cm wider than previously approved;
- The reinstatement of the façade of No.55 Church Street is not the subject of this application under appeal, but nonetheless was carried out in consultation with Fingal County Council and specifically the Conservation Officer;
- The development contributes to retail policy in supporting the vitality and viability of Skerries;
- Ventilation units have been replaced and were addressed at further information stage of the retention planning application. Noise is not an issue.

6.2.2. The appeal response was accompanied by a letter from Mr. Sean Halpin who resides at Tennis Court Lane. The letter states that there has been a vast improvement in noise emitted from air conditioning units, which have recently been enclosed.

6.3. **Planning Authority Response**

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

- The proposal accords with the provision of the Fingal Development Plan 2017-2023 in respect of development within ACAs and the 'Architectural Heritage Guidelines for Planning Authorities (2011);
- The Conservation Officer's report notes that the cleaning of the brick has improved the appearance of the building;
- Having regard to the nature of the proposed development (comprising modification to a supermarket extension and reconfiguration of entrance lobby) and the distance of these elements to adjoining residential property, no undue impacts on the amenity of adjoining residents would occur;
- Three roof vents positioned on the roof are considered acceptable and would not result in any undue impacts on residential amenity;

- Issues of non-compliance with a separate planning permission relate to specific issues which may be addressed through the planning enforcement process.

6.4. **Observations**

6.4.1. There are no observations received on this appeal.

7.0 **Assessment**

7.1. **Introduction**

7.1.1. I have read the entire contents of the file, have had particular regard to the planning history associated with the 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 as constructed and for which retention of planning permission is sought under the current application result in a diminution in surrounding residential amenity or undue loss to the ACA over and above that associated with the grant of planning permission under Reg. Ref. F14A/0527. My assessment, therefore, will limit its deliberations to the proposed alterations for which retention is currently being sought.

7.1.2. In the above context, I consider the main issues which arise in this appeal include:

- Principle of the Development;
- Impact on ACA;
- Impact on Residential Amenity;
- Other matters.

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

7.2. **Principle of the Development**

7.2.1. The principle of the supermarket has been established and permitted by virtue of previous planning permissions. The current proposal broadly comprises of the

retention of alterations to a previously permitted development for a supermarket extension, reconfiguration of the entrance lobby and atrium, and provision of mechanical plant and rooflights. Proposals are consistent with the 'TC' zoning objective for the site where a supermarket of up to 2,500 sq.m of net floor area is permitted in principle. It is also supported by retail policy for town centre areas as set out in the development plan and in national policy, which directs convenience retail to town centre locations, in accordance with the retail hierarchy thus supporting the vitality and viability of town centres.

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

7.3. Impact on Architectural Conservation Area

7.3.1. The grounds of appeal raise concerns that the development proposed to be retained has had an adverse impact on the traditional vernacular architecture of the street.

7.3.2. It appears that the applicant reused the brick from the demolished structure, No. 55 Church Street, supplemented by some new brick, as some of the salvaged brick was damaged. A report was received from Fingal County Council's Conservation Officer initially raising concerns in relation to the brick used. Following consideration of the response to a further information request, the Conservation Officer considered the cleaning of the brick to be acceptable and has improved the appearance of the building and stated that the concerns raised in the initial Conservation Officer's reports had been satisfactorily resolved.

7.3.3. Other changes to the design include an increase in the overall depth of the supermarket extension, use of different materials, omission of window opens from the north and north-west elevation and a lift overrun at roof level. Alterations to the front and rear elevation of the atrium are also included. The design changes are considered acceptable.

7.3.4. I am guided by the expertise of the Conservation Officer who is satisfied with the brick used. I have not seen the original building, as it was demolished some time ago. Noting the photographs on file, it is evident that the brick façade and the design is at variance to the original building, but its general design is the same. I consider it has shown an acceptable respect to the setting of the ACA. I also accept the use of

materials on the rear of the extension to be acceptable in their context and when balanced with the practicalities of a modern build.

- 7.3.5. Overall, I am satisfied that the development, which is to be retained, 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.

7.4. Impact on Residential Amenity

- 7.4.1. Concerns are raised in the grounds of appeal regarding negative impact of noise which currently arises from automatic ventilation in the roof. It is asserted that this has resulted in a major noise source and no sound barrier has been erected. In response the applicant states that the ventilation units have been replaced and that noise is not an issue. A letter of support from a neighbouring resident accompanied the appeal in which it was stated that there has been a vast improvement in noise emitted from air conditioning units, which have recently been enclosed.
- 7.4.2. On the day of my inspection, I observed the automatic ventilation units, which it is stated by the applicant are replacement units. The area is enclosed by a louvered screen which I consider is visually acceptable. Details are presented on drawings received by the planning authority at further information stage. I did not notice any excessive noise and modern ventilation plant is designed so as not to emit excessive noise.
- 7.4.3. Based on all of the information available to me, and having inspected this element as part of my overall site inspection, I consider that the three automatic opening vents which are the subject matter of this retention application would not impact unduly on adjoining residential amenity over and above that associated with the permission granted under Reg. Ref F14A/0427. While the grounds of appeal express concerns in relation to the proposed development as a whole, and its impact on surrounding residential amenity, the original planning application has the benefit of planning permission and cannot be revisited for the purposes of the current application and appeal before the Board.
- 7.4.4. 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.

7.5. Other Matters

- 7.5.1. Concerns are also raised about non-compliance with previous permissions including the requirement for a buffer along the northern boundary of the site. While being cognisant that enforcement of unauthorised development is not within the remit of An Bord Pleanála, I am satisfied that the applicant has identified elements which appear to be non-compliant with the parent permissions and is now seeking retention permission for these elements. Beyond this, issues of non-compliance are dealt with through an enforcement process which is a separate matter for the Planning Authority outside of the process for dealing with the merits of this application and appeal.
- 7.5.2. In relation to matters raised about flood risk, there is no evidence 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.

7.6. Appropriate Assessment

- 7.6.1. 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 proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1.1. I recommend that retention permission is granted subject to the attached schedule of conditions for the reasons and considerations set out under.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the provisions of the Fingal Development Plan 2017-2023, including zoning objective 'TC' and to stated retail policy, in particular ED43 which supports appropriately scaled improvements to the quantum and quality of retail offer and function in Skerries and to the nature, scale and design of the proposed alterations for which retention planning permission is being sought, it is considered that subject to conditions set out below that if permitted, the development for which retention is sought would not seriously injure the amenities of the area or of property in the vicinity or detract unduly from the Skerries ACA. The development for which retention is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 16th day of June 2017, 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. 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 16th 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. 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 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.

Patricia Calleary
Senior Planning Inspector

31st October 2017