



An
Bord
Pleanála

Inspector's Report ABP-300507-17

Development	Retain change of use from office to an apartment and permission for change of use of offices to two apartments
Location	Block 2, Ballisk Court, Donabate, County Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F17A/0160
Applicant(s)	Derek Keogh
Type of Application	Retention Permission & Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Des O'Brien
Observer(s)	None
Date of Site Inspection	20 th March 2018
Inspector	Colm McLoughlin

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	6
3.4. Third-Party Submissions	6
4.0 Planning History.....	6
4.1. Appeal Site.....	6
4.2. Surrounding Sites.....	7
5.0 Policy Context.....	7
5.1. Development Plan.....	7
5.2. National Guidelines	8
6.0 The Appeal	9
6.1. Grounds of Appeal	9
6.2. Applicant's Response.....	10
6.3. Planning Authority Responses	11
6.4. Observations	12
6.5. Further Responses.....	12
7.0 Assessment.....	12
8.0 Appropriate Assessment.....	18
9.0 Recommendation.....	18
10.0 Reasons and Considerations	18
11.0 Conditions	18

1.0 Site Location and Description

- 1.1. The appeal site is located in Ballisk Court off Main Street, centrally within the town of Donabate in north County Dublin, adjacent to Donabate Shopping Centre and within 200m of the rail station.
- 1.2. It currently comprises a u-shaped part-two and part-three storey building known as Block 2, fronting onto an access road off Main Street and with a gated courtyard space to the rear. At ground-floor level the subject building contains a retail unit, an office and a three-bedroom apartment. At first-floor level there are another three office units, while on the western side of the building at second-floor level there is two apartments. Block 2 features a mix of external finishes, including painted render to the ground-floor level and red-brick to the upper floors.
- 1.3. The immediate area to the appeal site comprises services and parking for various commercial and residential uses in the immediate area. The site is adjacent to the south of Donabate Shopping Centre, which is anchored by SuperValu supermarket and features commercial and retail units opening onto Main Street. To the west of the site, moving away from Main Street, Ballisk Court features residential townhouses and apartment blocks between two and four-storeys in height. Ground levels in the vicinity are relatively level.

2.0 Proposed Development

- 2.1. The development proposed to be retained comprises:
 - change of use from ground-floor office to three-bedroom apartment with a stated gross floor area (GFA) of 100sq.m.
- 2.2. The proposed development comprises:
 - change of use from office at first-floor level to two one-bedroom apartments, both with a stated GFA of 50sq.m;
 - revised internal layout to existing ground-floor apartment;
 - alterations to the external elevations including balconies and doors;

- provision of bicycle shelter and refuse collection area to rear courtyard space.

2.3. In addition to the standard contents, the planning application was accompanied by a Planning Report. The proposed development was revised following a further information request to identify the existing and proposed allocation of car parking spaces and to provide for two revised balconies at first-floor level on the western elevation.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission and to grant retention permission for the proposed development, subject 12 conditions, including the following:

Condition No.2 – revised drawings to be submitted regarding:

- (i) increased floor areas for two bedrooms;
- (ii) details of dedicated storage space for the apartments;
- (iii) the existing second-floor balcony should remain in situ;
- (iv) details of access to car parking and the allocation of parking.

Condition No.5 – a Part V agreement or an exemption is required;

Condition No.10 – bond to be submitted;

Condition No.11 – contribution in lieu of open space shortfall;

Condition No.12 – section 48 general development contribution levy applies.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the Planning Officer (May 2017) requested the following further information:

- Item 1 – further details regarding car parking;
- Item 2 – details regarding proposed balconies;

- Item 3 – provision of public open space;
- Item 4 – status of the two existing apartments at second-floor level;
- Item 5 – proof of legal entitlement regarding access and parking;
- Item 6 – respond regarding any necessary third-party consents.

The final report of the Planning Officer (November 2017) reflects the decision of the Planning Authority. The Planning Officer notes the following in their report:

- screening and obscure glazing to first-floor windows directly above the terrace space in the courtyard would address overlooking of this private amenity space;
- minimum residential floor area standards are achieved with the exception of a marginal deficiency in internal storage space, when excluding hotpress space;
- provision of private open space would be in accordance with Development Plan standards;
- revised layout to show parking should be requested as a compliance condition given concerns regarding congestion and capacity;
- omission of the balcony structure on the northwest corner, would result in the residents of the second-floor apartment not being provided with private amenity space;
- applicant is willing to pay a contribution in lieu of the shortfall in the provision of public open space;
- it is noted that the parent permission allowed for the apartments at second-floor level and that sufficient evidence is provided regarding legal entitlement.

3.2.2. Other Technical Reports

- Water Services Section - no objection, subject to conditions;
- Transportation Planning Section – no objection, subject to conditions;
- Parks Division – no response.

3.3. Prescribed Bodies

- Irish Water – no objection, subject to conditions.

3.4. Third-Party Submissions

- 3.4.1. A total of three submissions were received during consideration of the application, including two submissions from a neighbouring resident and one submission stated to be from a director of the management company for Ballisk Court. The matters raised in the submissions are covered within the grounds of appeal below.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. The following applications relate to the appeal site:

- Fingal County Council (FCC) Ref. F00A/0759 – Permission granted (February 2001) for mixed-use development including 102 apartments, 14 townhouses and commercial/retail blocks. Condition No.19 of the permission required details of car parking, including use of parking for the apartments solely by the occupiers or visitors to the apartments. Conditions 37 to 41 required the payment of development contributions, including €82,000 to be paid towards the cost of providing public open space and recreational facilities in the area;
- FCC Ref. F03A/0129 – Permission refused (April 2003) for revisions to Block 8 of the parent permission FCC Ref. F00A/0759, including an additional third-floor, extended crèche floor area, omission of four offices and provision of six apartments. Reasons for refusal related to the impact of increased residential use on the character of the town centre and the absence of defensible space between the apartments and the car park.
- FCC Ref. F04A/1055 – Permission granted (October 2004) for minor revisions to the external appearance of blocks, including Block No.2;
- FCC Ref. F06A/1630 – Permission granted (February 2007) for minor revisions to Block No.2, including canopies, a new door, landscaping and signage;

- FCC Ref. F09A/0461 – Permission refused (October 2009) for change of use of offices at ground floor to Block No.2 to a flexible commercial use (including retail, restaurant, café or fast-food takeaway use), single-storey rear extension with terrace above, signage and other alterations to the elevations. Reasons for refusal related to the inadequate provision of car parking to serve the development and the potential for overlooking from the first-floor terrace;
- FCC Ref. F12A/0019 – Permission granted (May 2012) for change of use of a ground-floor office unit in Block No.2, to retail use with associated signage.

4.2. Surrounding Sites

4.2.1. Reflective of the town-centre location, the surrounding area has been subject to planning applications for a variety of uses and developments. Of relevance is a recent Board decision relating to residential proposals 170m to the west of the appeal site:

- ABP Ref. PL06F.248756 (FCC Ref. F17A/0192) – Permission refused (January 2018) for an additional six apartments in a previously permitted residential development at Turvey Walk. Reasons for refusal related to the lack of a commensurate provision of additional car parking or public open space, which would give rise to the overdevelopment of the site, and the impact of the development on properties along Turvey Avenue.

5.0 Policy Context

5.1. Development Plan

5.1.1. The appeal site and immediate surrounding area has a zoning objective 'TC – Town & District Centre' within the Fingal Development Plan 2017-2023, 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'. Residential use is permitted in principle on 'TC'-zoned land. The Plan states that the vision for 'TC'-zoned land is 'to maintain and build on the accessibility, vitality and viability of the existing urban centres in the County'. The appeal site is within the area that will be subject of an Urban Framework Plan, as supported by Objective 'DONABATE 9'.

The appeal site and town centre lands do not fall within the area covered by the Donabate Local Area Plan 2016, which focusses on four parcels of greenfield residential-zoned land on the edge of the town. Objectives PM06 and PM07 of the Plan are relevant and these seek to encourage an appropriate mix of uses in urban centres.

- 5.1.1. Section 12.4 of the Plan includes a host of both qualitative and quantitative 'Design Criteria for Residential Development', including standards for apartment developments. Section 12.7 provides standards for open space provision, including Objective PM53, which allows for payment of a contribution in lieu of a shortfall in open space provision and Objectives DMS57 which sets out open space requirements based on population. Table 12.8 of the Plan outlines that a norm of one car parking space is required for a one-bedroom apartment, two spaces are required for a three-bedroom apartment and one visitor parking space should be provided for every 5 residential units.

5.2. National Guidelines

- 5.2.1. Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities published in March 2018 by the Department of Housing, Planning & Local Government (DHPLG) under Section 28 of the Planning and Development Act 2000, as amended (hereinafter 'the Act'), update and supersede the previous 2015 document and are relevant to this appeal. The Guidelines include Specific Planning Policy Requirements (SPPRs) that take precedence over any conflicting, policies and objectives of statutory plans. Chapter 3 of the Guidelines includes a host of standards relating to apartment design, many of which are consistent with those of the Fingal Development Plan 2017-2023. Section 6.9 of the Guidelines requests that Planning Authorities practically and flexibly apply the general requirements of the Guidelines in relation to refurbishment schemes, including existing building conversion projects.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appellant is stated to be a resident of Ballisk Court and a director of Ballisk Court Management Company Limited, which manages open spaces and car parking within Ballisk Court and represents all of the properties, both commercial and residential. The principal grounds of the third-party appeal can be summarised as follows:

Legal Agreement

- proposals represent a material breach of a lease agreement, which was not discussed with the management company;
- parking permits have not been issued by the management company to the owner of Block 2;
- proposed balconies may overhang areas not in legal control of the applicant;
- the onus is on the Board to disprove submissions by the appellant, based on the guidance contained in the Development Management Guidelines (2007);

Procedural Matters

- applicant does not have sufficient legal interest to make the application, as they do not own the land immediate to building Block 2, which was included within the application redline site boundary and a letter of consent for same did not accompany the application;
- there are important details omitted from the application drawings, including balconies at first-floor level, circulation areas between floors and internal doors;

Residential Development

- proposals provide for a poor quality layout to all three apartments and are absent of the minimum amount of communal/public open space (19sq.m) to serve residents of the apartments;

- reference is made to standards relating to minimum apartment sizes, access to sunlight and daylight and dual aspect units;
- each of the apartments would be provided with storage space well below the minimum standards;
- orientation of balconies, with north or east-facing aspect would not make these pleasant amenity spaces;
- proposals materially contravene the Development Plan, as the applicant does not have legal entitlement to provide the 5 car parking spaces necessary to serve the apartments. Parking in the 110 no. spaces in Ballisk Court, is available on a first-come, first-served basis.

6.1.2. The grounds of appeal are accompanied by Land Registry folio maps for the area including the appeal site. Correspondence stated to be from Ballisk Court Management Company Ltd. instructing a new company to manage parking in the Ballisk Court complex is also appended.

6.2. Applicant's Response

6.2.1. A response to the grounds of appeal was submitted on behalf of the applicant and this can be summarised as follows:

- the third-party appeal has been submitted in response to a dispute between the appellant and the applicant and it is noted that the Development Management Guidelines outline that the planning system should not be used as a mechanism to resolve such disputes;
- the property was acquired by the applicant in 2016 and they seek to regularise interventions made by a previous owner. The applicant has sufficient legal entitlement to make the application, to carry out the works, to access the site and to use the car park. Correspondence is included with the appeal to outline legal entitlements to access and car parking at Ballisk Court;
- the appeal should have been declared invalid, as it included an incorrect reference within the development description;

- the main concerns raised by the appellant relate to non-planning considerations and, therefore, the appeal is considered vexatious, frivolous and without substance, and the Board is requested to dismiss the appeal under the terms of Section 138 of the Act;
- the site is within a rent-pressure zone, would provide housing in an existing building on a fully-serviced site and would not adversely impact on the character of the surrounding town centre;
- proposed development would not impact on the residential amenities of neighbouring properties and would provide accommodation, private amenity space and car parking in line with Development Plan standards and the DHPLG Apartment Guidelines 2015;
- the appeal site is not an ideal location for retailers, as it is dislocated from the primary retail core and this has resulted in the vacancy on site;
- the development is supported by various objectives of the Development Plan, including Objectives PM30 and PM31, which encourage a mix of uses in town centres;
- it is not possible to provide for public/communal open space on site, but the site context and attachment of a condition requiring payment of a financial contribution in lieu of the shortfall in open space would suitably address this matter.

6.2.2. The first-party response is accompanied by a revised set of drawings for the development, which are stated to address matters raised in the grounds of appeal and a condition of the Planning Authority decision.

6.3. Planning Authority Responses

6.3.1. The responses from the Planning Authority both to the grounds of appeal and the applicant's response can be summarised as follows:

- the Planning Authority previously sought to address matters relating to legal entitlement as part of a request for further information;

- the onus rests with the applicant to ensure that they have sufficient legal title to undertake the subject works, as per Section 34(13) of the Act;
- planning conditions relating to bonds and contributions, similar to those in the Planning Authority decision should be attached in the event of a grant of permission.

6.4. Observations

6.4.1. None.

6.5. Further Responses

6.5.1. A response to the applicant's response to the grounds of appeal was received from representatives of the appellant, and this can be summarised as follows:

- reiteration of concerns regarding the legal interest of the applicant to make the application;
- the applicant owns Block 2, but does not own the attendant grounds to Block 2, as illustrated on the application drawings and, therefore, cannot provide parking to serve the development;
- requests that the Board seeks further information from the applicant to establish their legal interest in relation to the attendant grounds.

7.0 Assessment

7.1. Introduction

7.1.1. The proposed development relates to an existing 2 to 3-storey building situated centrally within the town of Donabate. The eastern end of the building accommodates a retail unit and an office at ground floor and two offices at first-floor. The western end of the building, which is the subject of this appeal, is in use as apartments at ground and second floor, while the first floor contains a vacant office unit. It is proposed to retain the ground-floor three-bedroom apartment and to change the vacant first-floor office unit to 2 no. two-bedroom apartments. It is stated that the existing apartments at second-floor level were permitted under the parent

permission dating from February 2001. The two-storey element closest to Main Street would remain in commercial use, while the three-storey element would be used for residential accommodation.

7.1.2. I note that in the applicant's response to the grounds of appeal, they request that the appeal be dismissed, as in their opinion it is frivolous, vexatious and without substance or foundation. I have examined the appeal submission and I am of the opinion that the grounds of appeal raise valid planning issues requiring assessment at appeal stage. Therefore, I would not recommend that the Board dismiss the appeal on the grounds that it is vexatious or without substance or foundation.

7.1.3. As part of their appeal, the applicant has submitted revised drawings for the proposed development, and, where relevant, I consider these as part of my assessment below. Consequently, I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Principle of the Development;
- Design & Layout;
- Car Parking & Open Space.

7.2. Principle of the Development

7.2.1. The appeal site and immediate surrounding area has a zoning objective 'TC – Town & District Centre' within the Fingal Development Plan 2017-2023, 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'. Residential use is permitted in principle on 'TC'-zoned land and the Planning Authority considers that the principle of the development is provided for in the Development Plan. The Development Plan also includes objectives that seek to encourage an appropriate mix of uses in urban centres, including Objectives PM06 and PM07. Therefore, it is essential that the development, including the apartment for retention, do not conflict with those objectives of the Plan.

7.2.2. I note a previous application dating from April 2003 (FCC Ref. F03A/0129), relating to Block 8 of the Ballisk Court complex beside the main shopping centre car park, was refused permission for, inter alia, omission of four offices and provision of six

apartments due to the impact of increased residential floorspace on the character of the town centre and the absence of a defensible space between the apartments and the car park. While I accept that the subject proposed development and the development proposed to be retained would increase the provision of residential floorspace in this town centre location, having regard to the overall scale (200sq.m), I do not consider that the increase would be significant enough to impact on the overall character of the town centre or that it would be harmful to the vitality and viability of the town centre. The impact of the development on the character of the town centre would be lessened by virtue of the positioning of the two proposed apartments at first-floor level, the setting of the subject building across the street from the main shopping centre and as this building is setback 30m from Main Street, the main commercial street serving the town. The proposed development, including the element proposed to be retained would be in keeping with the character of the area, with residential uses dominating the western side of the Ballisk Court development and would not conflict with the objectives of the Development Plan relating to the provision of an appropriate mix of uses in the town centre. Accordingly, the proposed development and the proposed development for retention should not be refused for reasons relating to the principle of the development.

- 7.2.3. In conclusion, I am satisfied that the principle of changing the use of the first-floor office floorspace to two apartments and retaining the change of use of the ground-floor office floorspace to a three-bedroom apartment is acceptable, subject to the planning and environmental considerations addressed below.

7.3. Design & Layout

- 7.3.1. The grounds of appeal assert that the proposals provide for a poor quality layout to each of the apartments and that storage space well below the minimum standards would be provided. The Planning Authority note that the minimum residential floor area and private amenity space standards are achieved in the development design, with the exception of a marginal deficiency in internal storage space, when excluding the hotpress space. The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018) and the Fingal Development Plan 2017-2023 include a host of complementary apartment standards. My assessment concludes that each of the apartments would exceed the standards set

out in the Guidelines with respect to minimum apartment floor areas, living/dining room widths, aggregate living/dining/kitchen areas, aspect, private amenity space and depth, as well as floor to ceiling heights for the proposed first-floor apartments. The revised drawings submitted with the grounds of appeal, including drawing no. DK/PLN/p/04 ('Edition Compliance'), illustrate that internal storage space requirements would be achieved. However, I note that there are some shortfalls in the development with respect to certain aspects required under the minimum standards, as discussed below.

7.3.2. Specific Planning Policy Requirement 5 (SPPR5) of the Apartment Guidelines 2018 state that for a 'ground level apartment, floor to ceiling heights shall be a minimum of 2.7m'. The ground-floor three-bedroom apartment proposed for retention has a floor to ceiling height of approximately 2.5m. Section 6.9 of the Guidelines requests that Planning Authorities practically and flexibly apply the general requirements of the Guidelines in relation to refurbishment schemes, including existing building conversion projects. Given the apartment layout, including dual aspect to the main living area, I am satisfied that this shortfall would not be significant enough to justify refusal of retention permission for the ground-floor apartment. At approximately 2.65m in width, the bedrooms serving both of the proposed one-bedroom apartments would fall marginally short of the minimum 2.8m standard sought within the Apartment Guidelines. Furthermore, the bedroom serving proposed apartment 1.1 at first floor, measuring approximately 11.1sq.m, is marginally below the Guideline minimum standard of 11.4sq.m. However, I would not consider this significant and would be acceptable in the context of the terms provided for under Section 6.9 of the Apartment Guidelines. The living room to the ground-floor apartment and the bedroom to a first-floor apartment would be 10.75m from the nearest windows on retail and office units on the eastern end of the building, but with the screening to the amenity space at ground floor, the buffer of the courtyard and the different uses, commercial and residential, I am satisfied that this would be quite typical in an urban setting and would not be detrimental to the amenities of existing and future occupants of the subject apartments. In conclusion, the proposed development and the proposed development for retention should not be refused permission or refused retention permission in relation to the design and layout of the apartments.

7.4. Car Parking & Open Space

- 7.4.1. The grounds of appeal assert that there would be significant legal impediments in providing car parking to serve the proposed development and that the proposals are absent of the minimum amount of communal/public open space to serve residents of the apartments. The Board recently made a decision in relation to a neighbouring site at Turvey Walk in Donabate (under ABP Ref. PL06F.248756), 170m to the west, where an additional six apartments were proposed to a previously permitted development. The permission was refused for two reasons, one of which related to the overdevelopment of the site, resulting from the development not being provided with a commensurate increase in car parking or public open space.
- 7.4.2. Based on Development Plan standards the Planning Authority identified the shortfall in public open space to serve the development to be 21.5sq.m. Scope for providing this open space on site would be limited by virtue of the site boundaries, the town centre location and the immediate context. The parent permission (FCC Ref. F00A/0759) for the Ballisk Court development, dating from 2001, included a condition requiring payment of €82,000 towards the cost of providing public open space and recreational facilities in the area. The Planning Authority and the applicant is agreeable to payment of a contribution in lieu of the shortfall in open space provision, as allowed for under Objective PM53 of the Development Plan, which at 21.5sq.m would not be significant. Consequent to this and given the town centre location, which includes a green area 50m to the south of the site, I consider that a contribution in lieu of the shortfall in open space would be acceptable in this case.
- 7.4.3. I note that the floor area of the three apartments would amount to 200sq.m and this floor area was previously permitted as office space. The Development Plan outlines that a maximum of one car parking space per 30sq.m of offices would be required, and that this should be reduced by 50% in proximity to a town centre or a public transport node. Consequently, given the town centre location within 200m of Donabate rail station, the offices would attract three car parking spaces based on current standards. The apartment proposed for retention and the two proposed apartments would normally attract five parking spaces, based on Development Plan standards, which require one space for every one-bedroom apartment, two spaces for a three-bedroom apartment and one visitor space for every five apartments (when taking into consideration the two existing apartments at second-floor level in

Block 2). Section 4.18 of the Apartment Guidelines 2018 suggest that locations in proximity to frequent public transport nodes, such as the appeal site, would be suitable for a relaxation of car parking standards. The applicant has identified in their further information submission to the Planning Authority (see Drawing No. DL/PLN/pk/03 Edition 04) that there are two existing car parking spaces allocated to the existing second-floor apartments and a further four spaces would be allocated for the ground floor and first-floor apartments to the west of Block 2. Therefore, five spaces would be available to the remaining non-residential uses in Block 2. Taking into consideration the mix of uses within Block 2, I am satisfied that the proposed development would not attract a significant increase in parking to serve Block 2 and that the quantum of parking required can be provided, as per the details submitted. At the time of my site visit, the car parking spaces, as presented by the applicant, were not formally identified or marked on the ground. Condition 19 of the parent permission (FCC Ref. F00A/0759) required details of car parking spaces to be allocated for Ballisk Court and I consider that it would be reasonable to attach a condition to the permission to address the management of the car park spaces.

- 7.4.4. The grounds of appeal raise matters relating to property rights, including lease agreements between the applicant and the management company, and that this would impede the applicant's capacity to allocate the individual parking spaces to the residents of Block 2. I note the applicant's response to these matters accompanying their response to the grounds of appeal and the appellant's request for further information in this regard. Such issues are civil matters, and, accordingly, I do not propose to adjudicate on these issues, but I would highlight that Section 34(13) of the Act states that 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'. A note in relation to this should be attached to the decision in the event of permission being granted for the development.
- 7.4.5. In conclusion, subject to conditions addressing the allocation of car park spaces for Block 2 and requiring a contribution in lieu of the open space shortfall, the proposed development and the development proposed to be retained would be acceptable and should not be refused permission or refused retention permission for this reason.

8.0 Appropriate Assessment

- 8.1.** Having regard to the minor nature of the proposed development and the proposed development for retention, the existing building on site, 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

- 9.1.** I recommend that permission and retention permission should be granted, subject to conditions, for the reasons and considerations, as set out below.

10.0 Reasons and Considerations

- 10.1.1.** Having regard to the 'TC – Town and District Centre' zoning and location, the nature and scale of the development and the existing pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development and the development proposed to be retained would not seriously injure the amenities of the area or of property in the vicinity and would be in accordance with the provisions of the Fingal Development Plan 2017-2023 and the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018). The proposed development and the development proposed to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

- 1.** The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further information received by the Planning Authority on the 24th day of October 2017 and by the further plans and particulars received by An Bord Pleanála on the 29th day of January, 2018, 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 development shall be amended as follows:

- (a) The existing balcony at second-floor level shall be maintained or replaced.

Revised drawings shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of the development.

Reason: To protect the residential amenities of the apartment at second-floor level.

3. Within two months from the date of this order, a Parking Management Plan shall be prepared for the site and shall be submitted to and agreed in writing with the Planning Authority. This Plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the existing and proposed residential units and also to prevent inappropriate commuter parking.

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 and to ensure a proper standard of

development.

5. 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: In order to safeguard the residential amenities of property in the vicinity.

6. The applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the Planning Authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the Housing Strategy in the Development Plan of the area.

7. The developer shall pay to the Planning Authority a financial contribution in lieu of the public open space shortfall that arises based on the standards set out in Objectives DMS57 and Objective DMS57B of the Development Plan and 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 within two months from the date of this order 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.

8. 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 within two months from the date of this order 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.

9. 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.

Note:

(i) A person shall not be entitled solely by reason of a grant of planning permission to carry out any development.

Colm McLoughlin
Planning Inspector

10th April 2018