



An
Bord
Pleanála

inspector's Report ABP-303087-18

Development	Demolition of existing two-storey restaurant and the construction of a new restaurant and 9 no. residential units and associated site works.
Location	Silks Restaurant, The Mall, Malahide, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F18A/0509
Applicant(s)	Marcus Sung
Type of Application	Permission
Planning Authority Decision	To Refuse Permission
Type of Appeal	First Party v. Decision
Appellant(s)	Marcus Sung
Observer(s)	Deirdre Rochford
Date of Site Inspection	15.02.2019
Inspector	Erika Casey

1.0 Site Location and Description

- 1.1. The subject site has along narrow configuration and an area of 0.11ha. It is located on the southern side of The Mall in Malahide close to the village centre. It currently accommodates a detached commercial building which was formerly occupied by Silks Restaurant. The restaurant building is a part two storey, part single storey dormer building that is likely to have been in domestic use originally. It is currently vacant. The building has been extensively extended to the rear. There is a garden located to the rear which accommodates an outdoor seating/smoking area and surface car parking is located to the front. The site slopes steeply to the rear with a series of steps connecting the lower and upper parts of the rear garden. The existing building is elevated above the public road, and the site slopes upwards from the Mall.
- 1.2. The predominant uses in the area are commercial and residential. To the west of the site is a petrol filling station, and to the rear of this, is Heeley's View Apartment complex, a 5 storey development. Vehicular access to the apartments is from The Mall. Further west is the library, a protected structure. To the east, are large detached properties set within their own grounds. The property to the immediate east is also in commercial use and accommodates Therapie Hair Restoration. The Silks property ridgeline is lower than this adjacent building. A further infill 2 storey dwelling known as 'Somerton' has been constructed to the rear with access from the Rise. The ground levels associated with this dwelling are higher than the subject site. Opposite the site, is St. James Terrace, a terrace of two and three storey period properties, most of which are protected structures, and the Malahide Lawn Tennis and Croquet Club.

2.0 Proposed Development

- 2.1. The proposed development comprises:
- Demolition of existing two storey restaurant with a floor area of c. 443.8 sq. metres.
 - Construction of new restaurant and 9 no. residential units to be accommodated within 2 no. blocks with an overall gross floor area of c. 1,454.8 sq. metres:

- **Block A:** accommodates 2 no. 2 bed apartments and 1 no. 3 bed apartment over a restaurant at ground floor level with a floor area of c. 599 sq. metres. The Block is set back from the Mall by c. 16 metres and has an overall height of c. 15.9 metres. The lower ground floor accommodates 7 no. car parking spaces, bin stores, plant rooms and staff facilities.
- **Block B:** is located to the rear of the site behind Block A and accommodates 6 no. 2 bed apartments over 3 floors. The building has a maximum height of c. 11.8 metres. The proposed lower ground floor level provides for 14 no. car parking spaces, bin store and bicycle parking.
- Associated landscaping, boundary treatments, bin storage, bike storage, external seating areas, signage and site works.
- The area between the two blocks is to serve as the amenity area to serve the apartments and has an area of c. 150 sq. metres. Three terraces are located to the front to serve the proposed restaurant. Proposed finishes to the blocks comprises a mix of render and brick. Access to the development is from the Mall to the car parking located at a lower ground floor level for both the restaurant and residential units.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 To Refuse Permission for 3 no. reasons:

1. *The proposed development, having regard to its location within the Malahide Historic Core Architectural Conservation Area and the scale, mass and layout proposed would have a significant negative visual impact upon the streetscape of the Mall. The proposed development would, therefore, materially contravene Table 12.11 and Objective DMS157 and Objective DM158 of the Fingal Development Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.*
2. *The proposed development having regard to its layout, contravenes objective DMS28 and DMS85 of the Fingal Development Plan 2017-2023 and would*

provide for substandard residential amenities for future tenants and as such would be contrary to the proper planning and sustainable development of the area.

3. *The proposed development for the demolition of a heritage structure within the Malahide Historic Core Architectural Conservation Area for a large visually obtrusive redevelopment would represent an unwelcome precedent regarding development within an Architectural Conservation Area.*

3.2. Planning Authority Reports

3.2.1. Planning Report (30.10.2018)

- Given the location of the infill site within the centre of Malahide in close proximity to a range of services, facilities, the railway station and public transport routes, the density of the development at 81.8 units per ha is considered acceptable.
- The existing building contributes positively to the streetscape of the Mall. It is noted that permission was previously granted on two occasions for the demolition of the building, however, these permissions were granted prior to the designation of the ACA. The applicant has not put forward a rationale as to why the building warrants demolition.
- The design and scale of the proposal is out of character to the adjoining properties on the Mall and overly dominant. The apartment block at Heeley's View should not be used as the reference point for the design of development that fronts onto the Mall as it was granted prior to the ACA designation and is recessed back off the street on a backland infill site. The development is considered excessive for the subject site, overdevelopment and incongruous with the streetscape along the Mall.
- The apartments comply with the relevant qualitative and quantitative standards set out in the Development Plan. Serious concerns regarding the communal open space and balconies which it is considered will be overshadowed by Block B for the majority of the day. The development would provide for a sub-standard residential amenity for future occupants.

3.2.2. Other Technical Reports

Water Services (05.10.2018): No objection subject to conditions.

Transportation Planning Section (15.10.2018): Recommend Further Information regarding a revised parking layout and additional sightline drawings.

Parks Division (01.10.2018): Recommend Further Information regarding a tree survey and a landscape plan indicating boundary treatments and elevations and sections of the development in relation to neighbouring properties.

Environmental Health Officer (20.09.2018): No objection subject to conditions.

Conservation Officer (17.10.2018): Recommends refusal on the basis that it is considered the development is completely out of character to the adjoining properties on the Mall and not acceptable within the Malahide Historic Core ACA.

3.3. Prescribed Bodies

Irish Water (11.10.2018): No objection subject to conditions.

3.4. Third Party Observations

3.4.1 A number of third party observations were made on the application. Issues raised can be summarised as follows:

- The design of the development is considered inappropriate, out of scale and will have a negative visual impact on the character of Malahide Village and the ACA.
- Concerns regarding increases in traffic, that the development is served by inadequate parking and that the development will result in a traffic hazard.
- Consider that the development will give rise to negative overlooking and overshadowing impacts to adjacent properties.
- State that ground conditions are not accurately reflected on the application drawings and that there is no legal consent to remove boundary walls. Concerns regarding structural implications to adjoining properties from construction of underground car park.
- Concerns regarding impact on trees and boundary treatments.

- State that Block B is not in accordance with residential amenity standards.
- Consider inadequate SUDS details have been submitted.
- Note inaccuracies in planning drawings submitted.

4.0 **Planning History**

4.1 There have been a number of previous applications pertaining to the site and in the vicinity. These are set out in detail in the Planning Authority Planner's Report. Of particular relevance are the following:

Planning Authority Reference F05A/0456/Appeal Reference PL06F.212846

4.2 Permission refused in January 2006 by the Board for the demolition of the existing structure and construction of a four storey, mixed use development over basement. Reasons for refusal related to the scale of development which it was considered would conflict with the character of ACA, would seriously injure the visual amenities of the area and have an adverse impact on the residential amenities of an adjacent property by reason of overshadowing and overbearing impacts.

Planning Authority Reference F06A/1385/Appeal Reference PL06F.221995

4.3 Permission refused in September 2007 by the Board for demolition of the existing structure and construction of a four storey, mixed use development over basement, landscaped garden at the rear, car parking to the front and associated boundary treatment. Reasons for refusal are the same as those under Appeal Reference PL06F.212846.

Planning Authority Reference F08A/0366

4.4 Permission granted in September 2008 for a three storey over basement mixed use development over basement with parking.

Planning Authority Reference F16A/0168

4.5 Outline permission refused in June 2016 for a 2 storey detached family dwelling to the front parking area of Silks car park. Reason for refusal related to the fact that there was no direct vehicular access or in curtilage parking and thus the development was considered a haphazard form of backland development that would result in a substandard layout by virtue of the creation of a 33m long narrow

pedestrian laneway to the site and remote positioning of parking spaces from the site. It was considered the development would lead to a poor level of amenity for future occupants of the dwelling and injure the amenities of the area.

Planning Authority Reference F16A/0345

- 4.6 Outline permission refused in October 2016 for a 2 storey detached dwelling to the front parking area of Silks car park. Reason for refusal similar to that under F16A/0168.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative Development Plan is the Fingal County Development Plan 2017-2023. The site is zoned 'TC': *protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.*

5.1.2 The site is located within the Architectural Conservation Area of Malahide Historic Core.

5.1.3 There is an indicative cycle/pedestrian route along the Mall to the front of the site.

5.1.4 Relevant policies and objectives include:

Objective DMS39: *New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping and fencing or railings.*

Table 12.11 of the Plan sets out Direction for Proposed Development within Architectural Conservation Areas and noted the following key points:

- Existing buildings and structures should be retained and reused rather than replaced. Applications for demolition of buildings that contribute to the character of an ACA will only be granted in exceptional circumstances. The onus will be upon the applicant to justify the demolition of the building. The Council will start from the premise that the structure should be retained
- Development proposals for new build need to follow a sensitive design approach that respects the established character of the ACA in terms of the

scale, massing, bulk, plot sizes, proportions and materials of the adjoining buildings to the development site. Direction can be taken from traditional forms and dimensions that are then expressed in a contemporary manner or with contemporary elements rather than an exact copy of a historic building style. Where a totally contemporary design approach is taken, the detailing, materials and overall design must be carefully handled and be of a high quality to ensure the proposal does not compromise the integrity and character of the area.

- Demolition of structures that positively contribute to the streetscape character will not normally be permitted.

Objective DMS157: *Ensure that any new development or alteration of a building within or adjoining an ACA positively enhances the character of the area and is appropriate in terms of the proposed design, including: scale, mass, height, proportions, density, layout, materials, plot ratio and building lines.*

Objective DMS158: *All planning applications for works in an Architectural Conservation Area shall have regard to the information outlined in Table 12.11.*

Objective DMS28: *A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over 3 storeys, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs.*

Objective DMS85: *Ensure private open spaces for all residential unit types are not unduly overshadowed.*

5.2 Other Policy

Architectural Conservation Area of Malahide Historic Core Statement of Character

- 5.2.1 The Statement of Character notes that Malahide Historic Core Architectural Conservation Area (ACA) has The Diamond as its focal point and the four streets radiating from it New Street, Church Road, Dublin Road and The Mall (the latter two now forming Main Street). It acknowledged that The Mall is more disparate in character to the other streets radiating from The Diamond. It is stated that the vistas from the ACA to points outside the ACA also enhance the ACA's character, notably

the view from The Mall terminated by the Grand Hotel and the railway bridge from The Strand.

5.2.2 Regarding Infill Developments the document states:

“Designation as an ACA puts an onus on prospective developers to produce a very high standard of design, which respects or enhances the particular qualities of the area. New buildings should be designed to blend into the streetscape of Malahide using the materials, proportions and massing which determine its special urban character. Contemporary interpretations should be favoured over pastiche in order to maintain the authenticity of the fabric of the town.”

5.2.3 The Statement of Character states:

“Demolition will only be permitted where the structure makes no material contribution to the character or appearance of the area, or does not have the potential to do so through reinstatement of historic features. There will be a presumption in favour of retaining any structure that makes any positive contribution to the character of the ACA to avoid incremental loss or damage to its special character. Where permission is sought for demolition on the grounds of structural defects or failure, a condition report produced by a suitably qualified and experienced conservation professional, supported by photographs and drawings indicating locations of defects will be required. Justification on structural grounds for any demolition within the ACA must include details of repairs or remedial works normally used in similar circumstances demonstrating why they are not suitable in that instance. A full photographic record will be required before any demolition commences.”

Guidelines for Planning Authorities: Architectural Heritage Protection

5.2.4 This document, sets out comprehensive guidance regarding development in Conservation Areas. Section 3.10.1 addresses new development in ACA's and states:

- *“When it is proposed to erect a new building in an ACA, the design of the structure will be of paramount importance. Generally, it is preferable to minimise the visual impact of the proposed structure on its setting. The greater the degree of uniformity in the setting, the greater the presumption in favour of a harmonious design. However, replacement in replica should only be*

contemplated if necessary, for example, to restore the character of a unified terrace and should be appropriately detailed. Where there is an existing mixture of styles, a high standard of contemporary design that respects the character of the area should be encouraged. The scale of new structures should be appropriate to the general scale of the area and not its biggest buildings. The palette of materials and typical details for façades and other surfaces should generally reinforce the area's character."

Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities. (DHPLG 2018).

5.2.5 These guidelines provide recommended minimum standards for floor areas for different types of apartments; storage spaces; sizes of apartment balconies/patios and room dimensions for certain rooms.

5.3 Natural Heritage Designations

5.3.1 The site is located in close proximity to the Malahide Estuary SAC and SPA.

5.4 EIAR Screening

5.3.1 Having regard to nature and scale of the development comprising an infill residential and commercial development and the urban location of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- Proposal presented at pre application stage is significantly different to that lodged for planning. The overall scale, massing, density, building line, layout and design has been developed and modified. The site is zoned Town Centre and the proposed uses are acceptable under this objective. Consider that the development will generate positive activity in the area.

- The scale and massing of the proposal has been considered in the context of the surrounding built form. The proposed building utilises a harmonious blend of traditional and contemporary materials and forms and is an apt response to the sites location. Assesses the proposal in the context of the 12 criteria set out in the Urban Design Manual. All apartments have been designed in accordance with the Sustainable Urban Housing: Design Standards for New Apartments.
- The density of the development is considered appropriate and in accordance with the strategic aims of the of the National Planning Framework and County Development Plan by promoting more compact urban development and providing a high quality residential development. The Planning Authority have accepted that the density is acceptable. The massing is considered appropriate as is demonstrated with the visualisations submitted with the application.
- Report submitted with the appeal submission from an Historic Building Consultant. States that it is clear that a building or a group of buildings does not derive its heritage significance due purely to its location within an Architectural Conservation Area. Notes that the existing building was constructed in the latter half of the 20th century and is not a protected structure.
- Considers that the proposal will not detract from the ACA as it is a brownfield site and if the brickwork is selected to match the library, together the two buildings will form a complementary composition. States that the area of the Mall from the library to the Grand Hotel is not included in the historic maps and it is tenuous to include it in the Architectural Conservation Area. Considers that this part of Malahide is the result of development in the mid 20th century and it has the character of a suburban street of the time with front gardens with decorative planting. It is indeed pleasant but it, or its buildings are not of heritage significance and heritage cannot be a reason for the refusal of the proposed development.
- Revised plans submitted with the appeal response to address the Planning Authority's concerns regarding overlooking. The amendments provide for the inclusion of additional screening. Notes that all apartments will be dual aspect which will minimise overshadowing impacts.

- States that windows between the existing and proposed buildings are not directly opposing and as this is a town centre site, such limitations should not be implemented in the interest of increasing the density on the site. Considers that development will not cause overshadowing to adjoining sites.
- Details of boundary treatment submitted. With regard to the necessity for a tree survey, state that the majority of the greenery on site comprises shrubbery and trees on the site are not of merit as they are overgrown by ivy.
- Notes that dimensions on the application drawings are considered accurate. Site boundaries are in line with title maps. Concerns regarding potential impacts to common boundaries during construction can be addressed through a method statement.
- Engineering report submitted which notes that the types of SuDS measures that can be applied on site are limited. Permeable paving is proposed in the landscaped area of the development and storm water is to be attenuated on site in an in line attenuation tank.
- States that sightlines have been designed to allow sightlines of 49m on either side of the direct access. Revised parking layout submitted reducing parking provision to 18 spaces and parking bays with dimensions of 5m x 2.4m.

6.2. Planning Authority Response

- The applicant has stated that there was a significant difference between the proposal submitted at pre planning stage and the documents submitted as part of the application. From undertaking a comparison study of both, it is considered that the submission did not alter significantly.
- It is contended that the design and scale of the proposal is out of character to the adjoining properties on the Mall and is dominant at the point where the commercial core of Malahide transitions into a residential street of two storey houses. It is considered that even with the use of brick to match that of the Library, the proposed development would still have a negative impact upon the streetscape of the Mall and would represent an unwelcome precedent.

- The statement of character of the ACA clearly sets out the rationale for the protection of the Mall. The Development Plan sets out the policy requirements regarding proposals for development, including demolition, within the ACA. It remains the view of the Planning Authority that the demolition of a building in this location would undermine the viability of the ACA for the Mall, all of which are single houses on relatively large plots.
- Whilst the amended drawings submitted are noted, the concerns of the Planning Officer remains regarding Block B as it is considered that the balconies proposed to serve the apartments within this Block would be overshadowed by the block itself. Furthermore, the provision of privacy screens would not overcome the concerns of the Planning Authority.

6.3. Observations

Deirdre Rochford, 1 The Rise, Malahide

- Notes planning history pertaining to the site. Consider that there are inaccuracies in the application drawings relating to actual ground conditions, the red line boundary, spot levels and separation distances between the development and the observer's dwelling to the rear. No accurate site survey submitted. No consent has been given to remove boundary walls. State that no contextual or design strategy for the site have been submitted.
- Consider inadequate details have been provided regarding sightlines and traffic movements from the re-located entrance and that the development is served by inadequate parking provision. Note concerns regarding the auto track analysis and consider the development will result in a traffic hazard.
- Object that no tree survey was submitted and concerns regarding potential impacts to trees along property boundary, particularly from excavation works.
- State that no shadow study submitted and that the development will have an adverse impact on 'Somerton' located to the east.
- Consider that the development is out of context with the area, not compliant with relevant development standards and will have a negative impact on the

ACA. The proposed stepped terrace will break the building line along the Mall. The apartments will have a poor level of residential amenity.

- State that the development will have an adverse impact on the residential amenity of her property, particularly from overlooking.
- State that details regarding SuDS and surface water drainage are inadequate.

7.0 Assessment

7.1. Introduction

7.1.2 The main issues in this appeal are those raised in the grounds of the appeal and observation and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Impact of Development on Malahide Core Conservation Area.
- Impact on Residential Amenities.
- Other Issues.
- Appropriate Assessment.

7.2 Impact of Development on Malahide Core Conservation Area

7.2.1 The proposed development comprises the demolition of the existing building on the site and the construction of a new mixed use commercial and residential scheme comprising a restaurant and 9 apartments. The principle of the development is acceptable having regard to the zoning of the site and its town centre location. Significant concerns however, have been raised by the Planning Authority regarding the scale of the development which is considered overly dominant and the impact that it will have on the Malahide Historic Core ACA. It is the view of the Planning Authority that the demolition of the existing building would undermine the viability of the ACA. It is contended by the applicant, that the existing building has no particular architectural merit, is not a protected structure and in this context, its demolition is acceptable. It is detailed that the proposal will not detract from the ACA as it is a brownfield site and if the brickwork is selected to match the library, together the two buildings will form a complementary composition.

- 7.2.2 The report submitted with the appeal submission from the historic building consultant contains a number of historic maps. It is evident that the part of the Mall where the subject site is located, from the library to the Grand Hotel, is not included in any of the historic maps. This part of the Mall was primarily constructed in the mid 20th century. The subject property and those immediately to the east of it are, therefore, of relatively recent construction and are not protected structures.
- 7.2.3 The County Development Plan states that demolition will only be permitted within an ACA where the structure makes no material contribution to the character of the appearance of the area. The existing building in my view is not of any significant architectural merit to warrant its retention. It has been modified over the years and has no features of particular heritage interest. Whilst there are a number of detached properties along the Mall and the Rise with characteristic features and detailing, the part of the Mall from the junction of the Rise up to the Diamond comprises a much greater diversity of architectural styles. This is acknowledged in the Statement of Character regarding the ACA which states that *“The Mall is more disparate in character to the other streets radiating from the Diamond”*. The existing petrol station to the west of the site and 5 storey apartment block to rear punctuates the streetscape and has significantly altered the character and setting of this part of the Mall.
- 7.2.4 The existing building on the site is a two storey, red brick structure with bay windows and a mix of two hipped roof sections and a pitched roof with dormers. Whilst it maintains the established building line, it is an undistinguished design. I do not consider that the building in its current state is of any particular importance in terms of its contribution to the character of the ACA. In this regard, its demolition is acceptable. I note that the principle of the demolition of the existing structure was previously accepted by the Inspector in the assessment of the proposal under Appeal Reference 06F.221995 which also provided for the demolition of the existing building. The Planning Officer and Conservation Officer of Fingal Co Co. also had no objection to the demolition of the existing building in their assessment of the proposal under Planning Authority Reference F08A/036, at which time the site was located within the defined ACA. It is considered, therefore, that the main issue in this instance is the appropriateness of the replacement structure on the setting and character of the ACA.

- 7.2.5 The Architectural Heritage Guidelines sets out specific guidance regarding new development in an ACA noting that it is preferable to minimise the visual impact of the proposed structure on its setting and that a high standard of contemporary design that respects the character of the area should be encouraged. The scale of new structures should be appropriate to the general scale of the area and not its biggest buildings. Table 12.11 of the Fingal County Development Plan also provides guidance regarding new build in an ACA stating that a sensitive design approach that respects the established character of the ACA in terms of the scale, massing, bulk, plot sizes, proportions and materials of the adjoining buildings should be followed. In this context, I consider the proposal somewhat problematic and I would concur with the views of the Planning Authority, that the scale, height and bulk of the development are inappropriate.
- 7.2.6 The development presents as two large urban blocks, located on a raised podium with car parking provided at lower ground level. The overall massing of the development is visually incongruous on the streetscape. The large terraced area with proliferation of railings and steps extending out beyond the established building line and the high side retaining walls to the vehicular entrance at the front of the property, is visually obtrusive. The contextual elevations submitted with the appeal submission- drawing reference 3.1.201 clearly show the significant increase in scale proposed on the subject site. The height and massing of Block A which extends to 16 metres at its highest point is significantly greater than the adjacent property to the east and will appear visually dominant and disproportionate in the streetscape.
- 7.2.7 I do not consider the development provides an appropriate design response to the site or is of sufficiently high quality having regard to the wider ACA designation. I note the applicant's comments that if the brickwork is selected to match the library, the two buildings will form a complementary composition. Given the separation of the site from the library and the over scaled nature of the design, I do not consider that the proposed choice of materials will mitigate its overall visual impact. The proposal is overdevelopment of the site and will have an adverse impact on the visual amenities of the area.

7.3 Impact on Residential Amenities

7.3.1 I note that concerns were previously raised by the Board regarding potential impacts of development on the subject site to the adjoining properties to the east. There is a two storey commercial building to the immediate east (Therapies Hair Restoration) and there were concerns that the development would be injurious to the amenities of this property by reason of overshadowing and overbearing impacts. There is also an infill dwelling constructed to the rear of this property known as 'Somerton'.

7.3.2 Block A is located immediately adjacent to the western boundary of Therapies. Given the height of the block and its proximity to the boundary, it is likely to have an overbearing impact. I note however, that this property is in commercial use and in this context, the impacts will not be as significant. The proposed Block B to the rear of the site is located immediately adjacent to the boundary of 'Somerton'. The gable wall of this dwelling abuts the subject site. There is a paucity of information regarding the impact of the development on this dwelling with no detailed contextual elevations or sections submitted showing the relationship between the proposed development and this existing dwelling nor any detailed sunlight and daylight assessment. It is evident however, from the Proposed Elevation 4-4 and proposed Section A-A indicated on drawing reference 3.1.200 that this block will present as a significant structure along the eastern boundary. It will extend to a height of c. 14.6 metres and presents as blank brick elevation with some limited relief detail. Whilst, it is noted that 'Somerton' is located in an elevated position relative to the subject site, it is envisaged that the development would have an adverse overbearing and overshadowing impacts on its private amenity space.

7.3.3 The proposed development also abuts the rear garden of no. 1 the Rise located to the south. The rear elevation of Block B (indicated on elevation 2-2 - drawing reference 3.1.200) has a height of 14.6 metres and significant fenestration on the southern elevation. The height and scale of the development in proximity to this boundary is likely to give rise to significant overlooking and overbearing impacts. In this regard, I consider that the development will have a significant adverse impact on the residential amenities of adjacent properties.

7.3.4 The Planning Authority have also raised concerns regarding the future amenity of the scheme itself. There is a separation distance of c. 15.26 metres between the rear

elevation of Block A and the front elevation of Block B. The intervening space at podium level is to be used as an amenity space to serve the development. Each apartment is also served by a balcony. Concerns were raised by the Planning Authority regarding potential overlooking between the two blocks. In response, the applicant has submitted a revised drawing with their appeal response (see drawing 3.1.200) indicating additional screening on some of the external balconies facing the internal courtyard to reduce overlooking. Whilst this would mitigate overlooking impacts, it would also provide for a poor level of amenity to these private balcony spaces serving the apartment units. The minimal separation distance between the two blocks will also mean that the public open space will be overshadowed for much of the day. In this regard, I consider that the proposed development will provide a substandard level of amenity to future occupants.

7.4 **Other Issues**

7.4.1 **Traffic and Access:** I note that concerns have been raised by the observer regarding access to the development and the increase in traffic likely to be generated to the development. The applicant has submitted revised sightline drawings with the appeal response. A revised parking layout has also been submitted. Having regard to the urban location of the site and the fact that there is an existing commercial premises on the site, I am satisfied that given the scale of the development that it is unlikely to give rise to material adverse traffic impacts. A refusal on the grounds of traffic is, therefore, in my opinion, not warranted.

7.4.2 **Boundary Impacts:** Concerns have also been raised by the observer regarding potential impacts on the common boundary to the south. I consider that any such impacts can be appropriately addressed through appropriate construction management.

Appropriate Assessment

7.3.1 Having regard to the nature and scale of the proposed development, comprising the demolition of an existing building and the construction on a new mixed use commercial and residential development on zoned serviced land, and the 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 It is recommended that permission be refused for the reasons set out below.

9.0 Reasons and Considerations

1. The proposed development is located in an Architectural Conservation Area. The Architectural Heritage Protection Guidelines for Planning Authorities 2011 provide that the scale of new structures in an ACA should be appropriate to the general scale of the area and not its biggest buildings. It is considered that, by reason of its scale and design, the proposed development would conflict with the character of the Architectural Conservation Area, is considered visually incongruous in the streetscape and constitutes overdevelopment of the site. The proposed development would, therefore, conflict with the provisions of the guidelines and the guidance set out in the current Fingal County Development Plan 2017-2023 in Table 12.11 and would seriously injure the visual amenities of the area. The development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to its height, design and proximity of the development to the eastern and southern boundaries of the site, it is considered that the proposed development would seriously injure the amenities of the adjoining properties by reason of overshadowing and overbearing impacts. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development due to the inadequate separation distance between blocks would result in significant internal overshadowing to the proposed residential units and communal open space and provide for a substandard level of residential amenity for future occupants. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Erika Casey
Senior Planning Inspector
19th February 2019