



An
Bord
Pleanála

Inspector's Report

ABP-305643-19

Development	PROTECTED STRUCTURE: Construction of dwelling, removal of 9 parking spaces & retention of car parking layout.
Location	Shieling Square, Howth Road, Raheny, Dublin 5
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3571/19
Applicant(s)	October Management Limited
Type of Application	Permission.
Planning Authority Decision	Spilt
Type of Appeal	First Party
Appellant(s)	October Management Limited
Observer(s)	Fiona & Joseph McMorrow & John Pearson
Date of Site Inspection	25 th January 2020.
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The appeal site is located within the front amenity area of an existing gated development at Shielding Square. The site comprises the previous Shielding Hotel building which is a Protected Structure no. 3968, as identified within the Dublin City Development Plan, and has been redeveloped as an apartment complex. The apartment complex is laid out in a square arrangement around a landscaped courtyard. The three newer apartment blocks are each four-storeys in height. The development is bounded to the Howth Road by an iron railing and hedging, and to the east and west by hedging, semi-mature tree line and a 2 metre block wall.
- 1.2. The existing development within the site is line with the established building line to the west. A Circle K filling station is located to the east of the appeal site on the Howth Road and is in a position forward of this established building line.
- 1.3. The surrounding area is predominantly residential comprising semi-detached dwellings.

2.0 Proposed Development

- 2.1. It is proposed to retain the following development:
 - Retention of modifications to the car parking layout and adjoining area (with a combined area c. 26.5 sqm) to the south of the existing Sub Station.
- 2.2. It proposed to construct the following:
 - The construction of 1 no. 3 bedroomed, single storey residential dwelling (c. 120sqm GFA), - 2 no. covered surface car parking spaces, - Private open space (comprising 2 no. patio areas (1 no. covered) and landscaped areas), - Additional hard and soft landscaping including provision of a new pedestrian path, resurfacing arrangements and a green roof, removal of 9 no. surface car parking spaces

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council determined to issue a split decision as follows:

- Permission was **Granted** for the retention of the alterations to carparking layout.
- Permission was refused for the proposed dwelling for the following reason:
 - Having regard to the Z1 residential zoning, and to the Residential Quality Standards as set out in Section 16.10.2 of the Dublin City Development Plan, 2016-2022, it is considered that the proposed development would substantially infringe the existing front building line of Howth Road residential streetscape to the southwest and would result in an incongruous insertion into a formally designed and laid out set piece residential development, and would reduce the area of landscaped and communal space that currently benefits residents of the Shieling Square development. It is therefore considered that the subject proposal, by itself and by the precedent it would set for other development, would seriously injure the residential amenities of property in the vicinity, be contrary to the provisions of the Dublin City Development Plan 2016-2022 and be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planners report is consistent with the decision of the planning authority.

3.2.2. Other Technical Reports

- Drainage Division – no objections subject to conditions.
- Transport Division – no objections subject to conditions.
- Conservation – Concerns have been raised in relation to the architectural and character and setting of the Protected Structure, however it is recommended

that permission is granted subject to conditions requesting revised plans demonstrating a smaller dwelling of lower height and a revised landscaping Dubplan.

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

A number of observations were received from residents of both the apartments within Shielding Square and within the surrounding area. The issues raised can be summarised as follows:

- Loss of carparking.
- Break in building line.
- Out of character.
- Loss of open space.
- Impact on natural drainage.
- Disruption from construction activity.
- Obscure views

4.0 Planning History

There are a number of planning applications on site, the following are of relevance to this development:

ABP 248287 – Permission granted for the development of 3 no. 3 bedroom apartments at fourth floor of existing apartment block.

- 3669/15 – Permission refused (November 2015) for addition of 3 no. three bedroom apartments to fourth floor of Block B. Refused based solely on height of Block exceeding the maximum 13m allowed under the Dublin City Development Plan 2011-2017

- PL29N.238228 (DCC Ref. 3718/10) – Retention permission granted (April 2011) for extension of two-bedroom apartment B-31 to a three-bedroom apartment;
- 3515/09 – Split decision with retention permission granted (October 2009) for additional windows to Blocks A and C and retention permission refused for extension of two-bedroom apartment B-37 to a three-bedroom apartment;
- 4078/08 – Permission granted (November 2008) for modifications to Block B including 4 no. one bedroom units replacing 2 no. two-bedroom units, with condition 2 omitting proposals to add a fourth floor with 2 apartments to Block B;
- 1958/08 – Permission granted (June 2008) for modifications to residential development granted under Board Reference PL29N.220871 increasing the number of units from 68 to 74;
- Ref. PL29N.220871 (5067/06) – Permission granted (May 2007) for 68-unit apartment development in 4 blocks, including conversion of the Shieling Hotel to apartments: Condition 1(iii) - Revisions to Block B that may include screening to roof gardens overlooking of adjacent residential property to east and west.

Historical applications relating to the subject site include:

- PL29N.211097 (DCC Ref. 5402/04) - Permission granted (October 2005) for three-storey apartment development over basement carpark with 24 no. apartments, roof garden and associated site works;
- PL29N.130172 (DCC Ref. 0459/02) – Permission refused (December 2002) for part two storey/part three storey apartment development over basement car park with 35 apartments and car parking;
- PL29N.116929 (DCC Ref. 0415/99) – Permission refused (August 2000) for demolition of Shieling Hotel and erection of new hotel and apartment development.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

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

- Chapter 11 of the Plan provides guidance on development comprising or in the curtilage of Protected Structures. The curtilage of a Protected Structure is recognised as often an essential part of the structure's special interest and any development that has an adverse impact on the setting of a protected structure will be refused planning permission.
- Policy CHC2 - To ensure that the special interest of protected structures is protected.
- Section 16.10 provides standards for residential accommodation.
- Under Policy QH1 of the Development Plan, the City Council will have regard to the Ministerial Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007); 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2015) and 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009).
- Section 16.10.10 Infill Housing

National Planning Framework Project Ireland 2040

- Section 2.2 - Compact Growth
- NSO 1 – Compact growth

Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2018.

- Appendix 1 – Required minimum floor areas and standards

Quality Housing for Sustainable Communities 2007

Section 1.4.6 - Layout possibilities It is important to recognise the existing character, street patterns, streetscapes and building lines of an area, particularly in the case of infill sites or where new dwellings will adjoin existing buildings.

Section 5 – Dwelling design

5.2. Natural Heritage Designations

The nearest Natura 2000 sites to the proposed development are as follows:

- North Dublin Bay SAC and North Bull Island SPA are located c. 900 metres east of the site.
- South Dublin Bay and River Tolka Estuary SPA is located c. 2.187km south of the application site.
- Howth Head SAC is located c. 5km east of the site.
- Rockabill and Dalkey Island SAC are located c. 6.2 km south west of the site.

5.3. EIA Screening

5.4. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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

This is a first party appeal against Dublin City Council's decision to refuse permission for the proposed dwelling. The grounds of appeal have been prepared by Brock McClure on behalf of the applicant. The issues raised can be summarised as follows:

- Principle of development is in accordance with the central theme of the plan which seeks to make efficient use of scarce urban land on suitably zoned lands.
- Development will be well screened and will be 1.35 metres above the railing on the howth road.
- There are two established building lines on the Howth road and the proposed development is between these.
- Historically there would have been a building to the north.
- Proposed development is designed in a pavilion style and will be in keeping with the development on site.
- The proposed development will provide adequate separation distance between the development site and the Protected Structure.
- The remaining open space for the development is in accordance with the apartment guidelines. The grassed area to be developed is not used as an amenity space.
- The development supports the intensification and consolidation of infill/brownfield lands.
- Proposal would set a positive precedent for development in the vicinity.
- Applicants would accept conditions to provide for a smaller building of lower height.
- The applicant would also accept a condition relating to landscaping.
- Additional storage can be provided within the basement of the Shielding Square development.
- Adequate level of usable private open space has been provided for the proposed development.

6.2. Applicant Response

- None

6.3. **Planning Authority Response**

- None

6.4. **Observations**

Two observations were received from residents of the area. The issues raised are similar to those set out within the observations to the application.

7.0 **Assessment**

7.1. The site is subject to the Z1 zoning objective which seeks 'to protect, provide and improve residential amenities'. The principle of residential and retail development is established and permitted within this zoning objective. I note that this is a first party appeal against DCC decision to issue a spilt decision, the Board is requested by the applicant to consider the decision to refuse the proposed 3 bedroom dwelling.

7.2. The issues before the Board therefore solely relate to the refusal of the proposed dwelling within the site. The issues arising from this element of the development can be summarised as follows:

- Break of building line and impact on Protected Structure.
- Quantum and quality of open space.
- Appropriate Assessment
- Other Matters

Break of building line

7.3. It is contended by Dublin City Council within the reason for refusal that the proposed development would substantially infringe the existing front building line. The applicants contend that historically the Protected Structure on site would have had a building at this location in the form of a gate lodge, in addition the applicants make reference to the Circle K filling station and its location forward of the building line similar to the proposed dwelling.

7.4. I note within the observations submitted to the appeal that it is stated that the canopy of the filling station which is the element that is forward of the building line should not be considered development for this purpose, plans have been submitted by the

observers which demonstrate that the proposed dwelling will be significantly more forward of the building line established by the filling station to the east.

- 7.5. Whilst I acknowledge the contentions of the applicant in relation to the building line along the Howth Road, I note from site inspection that there is indeed an established building line with dwellings located back from the footpath edge, the proposed development would significantly break this pattern of development and whilst I do not consider that building lines should be arduously maintained in all circumstances, I have concerns in relation to the location of the proposed residential dwelling and the quality of residential amenity that the proposal provides for.
- 7.6. It is of note in the context of the building line that the existing development on site has a formally designed courtyard style layout with no buildings located forward of the existing Protected Structure on site. The layout of the apartment complex retains the Protected Structure as the central and dominant structure within the development. The position of the proposed dwelling forward of the existing block of development would interrupt views of the Protected Structure when viewed from a westerly point on the Howth Road and I consider would therefore negatively impact its prominence within the site.

Quantum and quality of open space.

- 7.7. It is contended by the Council within the reason for refusal that the proposed development would reduce the quantum of communal open space available to existing residents and the loss of this space would seriously injure the residential amenities of the area.
- 7.8. The applicant contends within the grounds of appeal that this amenity space is not used by residents and the removal of same would therefore not impact the amenity of the residential complex.
- 7.9. I note that the formal communal amenity space is located within the courtyard of the existing development, however this area is paved with landscaped sections throughout. There is no grassed area to sit or for play within this courtyard. The open space on which the proposed development will be located, is one of the only grassed areas available to residents within the development and the removal of this area would undoubtedly have an impact on the level of residential amenity provided for within the site.

- 7.10. Furthermore, I note that the open space to be provided to the proposed dwelling comprises a stated 33.5sqm to the south of the proposed dwelling which will have a width of 2-3 metres, a further strip of open space is provided directly adjacent to the railings at the Howth Road and will have a width of c. 2 metres. Two small patio areas are proposed to the north and south of the dwelling. The southern patio area is open to the existing development and as such is not useable private space. In addition, the northern patio area faces directly onto the existing laurel hedge along the Howth Road adjacent to the pedestrian entrance for the existing development.
- 7.11. Section 16.10.2 of the Dublin City Development Plan 2016-2022 requires rear gardens and similar private areas to be screened from public areas, provide safe and secure play areas for children, be overlooked from the window of a living area or kitchen, have robust boundaries, and not back on to roads or public open spaces.
- 7.12. Having regard to the closeness of the proposed building to the Boundary treatment along the Howth Road and the orientation of the site with the southern elevation and open space being visible from the remainder of the development it is questionable if the extent of open space to the dwelling can reasonably be regarded as being suitable.
- 7.13. The applicant essentially provides no adequate private open space for future residents of the proposed development and provides 'rear' private amenity space of less than 2 metres in width directly adjacent to the Howth Road footpath.
- 7.14. Notwithstanding the proposed landscaping in terms of bushes and existing hedging, I consider the area of open space to serve the existing dwelling to not only be significantly below the quantitative requirements of the Development Plan in terms of width but to also be unacceptably low when having regard to overall usability of the space.
- 7.15. Whilst I acknowledge that the overall area of this space is in excess of the 50sqm required by the development plan, the limited depth of space to the rear directly abutting the Howth Road footpath, will result in a dark strip with limited outlook and quality of space for residents. Having regard to the foregoing I consider the quantum and quality of open space proposed to serve both the proposed residential dwelling and the existing apartment development to be inadequate and contrary to the requirements of the Dublin City Development Plan.

Appropriate Assessment

- 7.16. Having regard to the scale and nature of the development proposed within an existing built-up area, it is not considered that the proposed development would be likely to have a significant effect, directly or indirectly, individually or in combination with other plans or projects on any European site. I consider no Appropriate Assessment issues therefore arise.

Other Matters

- 7.17. Whilst I note that concerns have been raised in relation to the removal of parking spaces, it is important to note that Dublin City Development plan specifies maximum car parking standards rather than minimum and the quantum of parking within the development adequately satisfies the requirements of the plan. There is a high frequency bus stop at the gate of the development which provides access to both the city centre and the surrounding area. Having regard to the foregoing I consider the removal of carparking spaces from this development to be acceptable.

8.0 Recommendation

- 8.1. I recommend that permission is refused for the proposed dwelling for the reasons and considerations marked (1) hereunder and granted for the retention of the car parking layout for the reasons and considerations marked (2) hereunder.

9.0 Reasons and Considerations

- (1) The proposed dwelling, by reason of its location forward of the established building line to the south west, the limited size and quality of private open space to be provided, and by reason of the limited size and quality of public open space that would remain for the existing development on the site, would result in a substandard form of development which would be contrary to the provisions of the Dublin City Development Plan 2016-2022, and would comprise overdevelopment of the site. The proposed dwelling would, therefore, seriously injure the residential amenities of the existing and future residents of the site, would be contrary to the provisions of Development Plan

and would be contrary to the proper planning and sustainable development of the area.

(2) Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of neighbouring properties or of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application to An Bord Pleanála, 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 within one month from the date of decision and the development shall be carried out and completed out in accordance with the agreed particulars.

Reason: In the interest of clarity

2. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. Access and parking layouts shall comply with the requirements of the planning authority for such works and services

Reason: In the interest of traffic safety

Sarah Lynch
Planning Inspector

11th February 2020