



An
Bord
Pleanála

Inspector's Report ABP-309084-21

Development	Revision of approved mixed-use development to include additional floor and 8 apartments.
Location	Strand Centre & Strandville Cottage, Junction of Strand Road & St Lawrence O'Toole Road, Portmarnock, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F20A/0520
Applicant(s)	Strandville Properties.
Type of Application	Planning Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party.
Appellant(s)	Andrew Dunne.
Observer(s)	DAA.
Date of Site Inspection	27 th April 2021.

Inspector

Elaine Sullivan

1.0 Site Location and Description

The appeal site is located towards the southern end of Portmarnock village, on the southern side of the junction with Strand Road and St. Lawrence O'Toole Avenue. It has a stated area of 0.19ha and currently comprises a single storey building with commercial units facing on to Strand Road and St. Lawrence O'Toole Avenue. The site also includes the adjoining dormer bungalow to the south, Strandville Cottage. The building is positioned towards the front of the site and close to Strand Road, with surface car parking to the front and rear.

To the south-west of the site is a terrace of single and two storey houses facing onto Strand Road, some of which are in commercial use. To the rear of the site, the existing development is residential in nature and comprises mainly two storey dwellings facing onto St. Marnock's Avenue. The property on the corner of St. Marnock's Avenue and St. Lawrence O'Toole Avenue is in use as a creche and pre-school facility.

Development adjacent to the appeal site and facing onto Strand Road is commercial in nature, with a recently completed Lidl supermarket directly to the north-east and Stafford House and O'Dwyers Bar on the opposite side of the road.

2.0 Proposed Development

- 2.1. Planning permission is sought for an amendment to a mixed-use development, (permitted under PA Ref. F19A/0568), which comprises a 3 storey building with commercial units at ground floor level with 20 no. apartments on the two levels above.
- 2.2. The amendment would comprise an additional floor to the building which would have 8 no. apartments, (4 x 1 bed units; 3 x 2 bed units & 1 x 3 bed unit). The additional level would be set back from the north-eastern elevation to St. Lawrence O'Toole Ave by 1.4m and from the south-eastern elevation to Strand Road by 2.8m. Terraces would be provided in these areas. Along the north-eastern elevation, the development would be set back from the permitted elevation by 2.8-3.5m and a sedum roof would be installed.

- 2.3. Additional site development works would include revisions to the bicycle parking layout and the provision of a stand-alone water tank on the western corner of the site.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was granted by the Planning Authority subject to 11 conditions, which were standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer dated the 2nd December 2020 informed the decision of the PA and included the following;

- The site is located within an area zoned TC – Town and District Centre. It is also located within the boundary of the Portmarnock Urban Framework Plan, which has not yet commenced and within the study area for the ‘Portmarnock Urban Centre Strategy, 2010’.
- The proposed development would increase the permitted residential density on the site from 101 to 141 units per hectare. The increase in density is acceptable in consideration of the Ministerial Guidelines, ‘Sustainable Urban Housing; Design Standards for New Apartments’, and, also in consideration of the location of the site and the proximity to transport connections.
- The Portmarnock Urban Centre Strategy remains an important planning tool. However, building heights in the area now supercede this and national planning policy regarding heights is noted.
- Having regard to precedent in the area, the proposed development would not be incongruous with the streetscape and would not result in a negative visual impact.

- A sufficient level of residential amenity would be provided by the apartments and the development would not impact on existing residential amenity in terms of overlooking or overshadowing.

3.2.2. Other Technical Reports

- Water Services Department – No objection.
- Parks and Green Infrastructure Division – The additional 8 units would result in a shortfall of 350sqm of public open space. The developer is required to make up this shortfall by way of a financial contribution in accordance with Section 48 of the Planning and Development Act, which will be applied to the continued upgrade of Class 1 open space facilities in the area.
- Transportation Planning Section – No objection subject to conditions. The road width at the entrance shall be reduced to a maximum of 5.5m. Each apartment shall have one designated car parking space. One of the commercial spaces should be reallocated to the residential use to accommodate this.

3.3. Prescribed Bodies

- Irish Water – No objection.
- DAA - The proposed development is located within Noise Zone C. Objective DA07 of the CDP is relevant in this instance and seeks to control provision of new residential development and other noise sensitive uses within this zone. The DAA requests that the future noise environment of the site be fully assessed with consideration of future airport growth, that internal noise levels appropriate for individual rooms can be achieved and maintained and that noise mitigation measures should be implemented as required by the PA.

3.4. Third Party Observations

2 third party observations were submitted to the PA during the public consultation phase and included concerns regarding the following issues;

- Excessive scale and size would have a negative impact on the village and on the surrounding 2 storey dwellings,
- The façade is out of character with the existing development.
- Increased traffic flows could result in a hazard for pedestrians as the existing environment is inadequate,
- Noise from the commercial units will impact on adjoining residential amenity,
- The construction phase will be disruptive and recent experience has resulted in no penalties imposed for infringement of building hours.

4.0 Planning History

F19A/0568, (ABP306695/20 – Appeal Withdrawn) – Planning permission granted by the Planning Authority on the 27th May 2020 for the demolition of existing single storey commercial building and the construction of a 3 storey building with commercial units at ground floor and 20 apartments, (16 x 2 bed apts & 4 x 1 bed apts), on the floors above. 39 car parking spaces and 58 bicycle spaces would be provided to the rear of the site.

5.0 Policy Context

5.1. Fingal Development Plan 2017-2023

- The subject site is zoned objective 'TC' – Town and District Centre, which has the objective to 'Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities'.
- The site is located within an area designated for an Urban Framework Plan and is also within the boundary of the Portmarnock Urban Centre Strategy, 2010.

- It is also located within Dublin Airport Noise Zone C.

The following objectives are relevant to the appeal;

Objective DMS24 - Require that new residential units comply with or exceed the minimum standards as set out in Tables 12.1, 12.2 and 12.3, which relate to gross floor area, aggregate living and bedroom areas, storage and room size.

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 PM41 - seeks to encourage increased densities at appropriate locations whilst ensuring that the quality of place, residential accommodation and amenities for either existing or future residents are not compromised.

Portmarnock Urban Centre Strategy, 2010.

- This non-statutory document sets out the development strategy for Portmarnock village from 2010.
- The appeal site is located within the area designated as the Village Core in the Urban Strategy.
- It is also identified as Opportunity Site A in the Strategy, which allows for a potential mixed-use development with a maximum height of 3 storeys.

National Policy

National Planning Framework

- National planning policy seeks to consolidate development and promote efficient use of land by utilising infill and brownfield sites.
- The National Planning Framework, (NPF), contains policies that relate to the promotion of compact growth and making better use of under-utilised land, including 'infill' and 'brownfield' sites.

- Objective 3a – Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- Objective 3b - Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

Design Standards for New Apartments, (2018).

- Supports the use of infill sites in urban locations to provide higher density apartment developments.
- Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m), to/from high capacity urban transport stops (such as DART or Luas), can be considered suitable for higher density apartment developments.

SPPR1 - Apartment developments may include up to 50% one-bedroom or studio type units.

SPPR2 – For all building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha;

- Where between 10 to 49 units are proposed there is no restriction on dwelling mix for the first 9 units and the provisions of SPPR1 shall be carried forward from the 10th residential unit.
- General blanket restrictions on building height or separation distance that may be specified in Development Plans should be replaced by performance criteria, appropriate to location.

SPPR3 – Sets out the standards for minimum apartment floor areas.

SPPR4 – Sets out the minimum number of dual aspect apartments to be provided in any scheme; a minimum of 33% dual aspect units are required in more central and accessible locations, a minimum of 50% in a suburban or intermediate location and on urban infill sites of any size or on sites of up to 0.25ha planning authorities may exercise discretion to allow lower than the 33% minimum.

Appendix 1 – sets out the minimum requirements for aggregate floor areas, room areas and widths, storage space, private and communal amenity space.

Car Parking – In areas that are well served by public transport, the default position is for car parking provision to be minimised, substantially reduced or wholly eliminated. This is particularly applicable where a confluence of public transport options are located in close proximity.

Urban Development and Building Heights; Guidelines for Planning Authorities, 2018.

Section 3.0 – Building Height and the Development Management Process

Development Management Principles

3.1 – It is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.

3.2 - In the event of making a planning application, the applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies a set of criteria. The criteria relate to the development's impact at the scale of the city/town, the district neighbourhood / street and the site / building.

SPPR 3 - It is a specific planning policy requirement that where;

(A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above, (Section 3.2); and 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

5.2. Natural Heritage Designations

No designations apply to the appeal site.

5.3. EIA Screening

Having regard to the existing development on site, 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

The grounds of appeal include the following;

- The proposed building height is in contravention with the current strategy plan and diminishes the residential amenity of the locality.
- It is requested that the mature tree canopy be restored on the site.

6.2. Applicant Response

A response from the applicant was received on the 2nd February 2021 and includes the following comments;

- The proposed development is a sustainable, medium density development of mixed uses in a town centre location, which is in accordance with national guidance on development and climate change.
- The development has been designed to minimise any diminution in residential amenity for adjoining residents. There are no balconies overlooking the appellant's property or any other residential property to the west or north/west of the site.
- Windows on the rear elevations are approximately 49m from the appellants property and there is a separation distance in excess of 29m from the closest point to the rear boundary of 1A St. Marnocks Avenue. As such the proposal

will not give rise to any overlooking or overbearance on existing properties on St. Marnocks Avenue.

- A revised sunlight analysis report is submitted with the response and shows that the development will not impact on the appellants property throughout the year or overshadow adjoining properties.
- The height is consistent with Ministerial Guidelines, and in particular with SPPR4 of the Building Height Guidelines, and the Fingal County Development Plan 2017-2023. The nature and location of the site is also identified as suitable for higher density development in the Sustainable Housing Guidelines.

6.3. Planning Authority Response

A response from the PA was received on the 3rd February 2021 and includes the following comments;

- Following assessment of the 3rd party appeal the PA has no further comment to make and requests that the Board uphold the decision of the PA.

6.4. Observations

One observation was received as part of the appeal;

- DAA – The proposed development is located within Noise Zone C for Dublin Airport. Objective DA07 of the CDP is relevant in this instance and seeks to control provision of new residential development and other noise sensitive uses within this zone. The DAA requests that the future noise environment of the site be fully assessed with consideration of future airport growth, that internal noise levels appropriate for individual rooms can be achieved and maintained and that noise mitigation measures should be implemented as required by the PA.

7.0 Assessment

7.1. Having inspected the site and considered the contents of the appeal in detail, the main planning issues in the assessment of the appeal are as follows:

- Principle of Development
- Height & Scale
- Residential Amenity
- Other Issues
- Appropriate Assessment

7.2. Principle of Development

The proposed development for an additional floor comprising 8 apartments to a previously approved mixed-use development is in accordance with the 'TC' zoning objective for the site and as such is acceptable in principle. The fundamental principles of the main development have been examined under the original application, (Ref. F19A/0568), and in my opinion there is no need to revisit the decision issued by the PA. Therefore, only the proposed amendment will be assessed under this appeal.

7.3. Height & Scale

The Portmarnock Urban Centre Strategy, 2010, identifies the subject site as 'Opportunity Site A' which has a development potential with a maximum height of 3 storeys. In contrast, the CDP is not prescriptive when it comes to building heights, but recommends that proposals for increases in height be carefully considered in transitional zones.

In assessing the impact of the proposed development, cognisance was had to Ministerial Guidelines issued under Section 28 of the Planning and Development Act, and in particular with, the Design Standards for New Apartments, (Apartment Guidelines), and the Urban Development and Building Height, Guidelines for Planning Authorities, (Height Guidelines). Both guidance documents promote higher

densities in urban areas where public transport is easily accessible. Section 3.2 of the Height Guidelines sets out criteria for assessment of proposals for increased height.

The proposed development would increase the permitted height of the building from 10.2m to 12.5m. Whilst the prevailing height to the south and west of the site is two storey in nature, the more recent commercial developments on Strand Road are of a larger scale. To the north of the site, the recently completed Lidl building has a height of 11m and on the opposite side of Strand Road is the 3 storey commercial building of Stafford House, which has a height of 12.5m. In my view the additional floor would be commensurate with the existing pattern of commercial development in proximity to the site and as such would not be out of character. Setbacks provided along the front of the building help to break up the massing of the development and respond to the variance in scale between the corner site and the surrounding 2 storey development to the south and west.

I am also satisfied that the proposed development meets the criteria as set out in Section 3.2 of the Building Height Guidelines. The site has a 'Town Centre' zoning objective and is well served by public transport. Portmatnock train station is approximately 1km away and there are bus stops on either side of Strand Road. In terms of the emerging urban form of the village, the proposal responds well to the surrounding pattern of development and the context of the site. Therefore, I am satisfied that proposal would not breach any specific objective of the CDP and would also meet the requirements of SPPR 3 in terms of its scale, design and impact on the village centre.

I note that the overall density of the development would increase from 102 units per hectare to 142 units per hectare. National guidance recommends higher densities within Town Centres, Brownfield sites or on public transport corridors, with a minimum net density of 50 units per hectare recommended in areas within close proximity to good public transport facilities. I am satisfied that the subject site is ideally placed to accommodate higher density development as it is an infill site located within a Town Centre zoning objective and in close proximity to a train station and a number of high frequency bus routes.

7.4. Residential Amenity

Proposed Residential Amenity

I am satisfied that the proposed apartments would provide a satisfactory standard of amenity for future residents. All of the proposed apartments either meet or exceed the minimum standards for floor areas, room size, and private open space as set out in the Apartment Guidelines. In most cases the storage allocation includes bedroom furniture, which in my opinion, is not in keeping with the spirit of the guidelines which state that storage should be additional to kitchen presses and bedroom furniture. However, as the floor areas of all units exceed the minimum requirements, this would allow for flexibility of use.

All but two of the additional units proposed would be dual aspect. In combination with the previously permitted development, this would yield a quantum of 57% dual aspect units for the overall development, which is in accordance with SPPR 4 of the Apartment Guidelines. The additional apartments would contribute to the overall mix of units in the scheme and would result in a total of 19 x 2 bed units, 8 x 1 bed units and 1 x 3 bed units, which is in accordance with SPPR 1 of the Apartment Guidelines.

No changes are proposed to the quantum of car parking provided for the development. A total of 39 car spaces would be provided, of which 28 would be allocated to the residential use, (1 per unit), with the remainder to serve the commercial uses. The PA has requested that an additional parking space be allocated to the 3 bedroom unit as per Development Plan requirements. This would leave 10 parking spaces for the commercial element of the development, which in my opinion is satisfactory.

Existing Residential Amenity

Having reviewed the drawings and application information, I am satisfied that the additional floor level would not result in any significant and undue impact on the existing residential amenity in terms of overlooking or loss of privacy. There are no windows on the north-western elevation which faces directly onto the property containing the Village Creche, and the closest external terrace at this level would be

approximately 30m from the rear of the adjacent house at 1A St. Marnock's Avenue. The south-western elevation would be c. 51-52m from the rear elevations of the properties backing onto the site and facing onto St. Marnock's Avenue, (No's 1, 1A & 1B).

A Sunlight Analysis was submitted with the application and an amended Sunlight Analysis was submitted with the appeal. Having assessed both versions, I am satisfied that the adjoining properties will not suffer any significant additional overshadowing from the proposed development.

7.5. Other Issues

The appellant raised concerns regarding the removal of trees within the site and along the north-western boundary and requested that they be reinstated. I note that the site is restricted with regard to the potential for landscaping and a landscaping plan does not form part of the current application. However, Condition No. 9 of F19A/0568 requires that a landscaping plan be submitted to the PA for agreement.

If an issue arises as to whether or not unauthorised development has occurred this can be addressed by the PA under Part VIII of the Planning and Development Act 2000 (and subsequent amendments).

7.6. Appropriate Assessment

Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission be granted for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed amendment to a mixed-use development within a Town Centre zoning objective, it is considered that the proposed development is in accordance with the provisions of the Fingal County Development Plan 2017 to 2023, the Design Standards for New Apartments, (2018) and with the Urban Development and Building Heights; Guidelines for Planning Authorities, (2018). It is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and by the further plans and particulars received by An Bord Pleanála on the 2nd February 2021, 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.</p> <p>Reason: In the interests of clarity.</p>
2.	<p>This permission authorises an additional 8 no. apartment units to give a total of 28 apartment units.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>The terms and conditions of the grant of permission, Ref. F19A/0568, shall be complied with in full in the course of the development herein permitted, save for the changes to the plans submitted by this application.</p>

	Reason: In the interests of proper planning and sustainable development of the area.
4.	<p>The duration of this planning permission shall be up to and including the 27th May 2025 and shall expire thereafter. All works shall be completed to that date to the satisfaction of the Planning Authority.</p> <p>Reason: In the interests of proper planning and sustainable development of the area and in order to complete the housing development permitted under F19A/0568.</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development and any signs shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>The developer shall comply with the following transportation requirements:</p> <ol style="list-style-type: none"> The road width at the entrance shall be reduced to a maximum of 5.5m to minimise the crossover of the public footpath. Details to be agreed in writing with the Planning Authority prior to commencement of development. The commercial car parking provision shall be reduced by 1 space which shall be re-allocated to the 3-bedroom unit proposed. This unit shall have an allocation of 2 parking spaces. All of the car parking spaces shall be individually marked and assigned to either residential, commercial or visitor use. No parking space shall be sold, leased, licensed or sub-let in connection with any other use or purpose. <p>Reason: In the interests of orderly development.</p>
7.	<p>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</p>

	<p>Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution in lieu of open space provision in accordance with the terms of the Development Contribution Scheme made under section 48,(2),(c) of the Planning and Development Act 2000, as amended. The contribution shall be applied towards the continued upgrade of local class 1 open space facilities in the Portmarnock area, namely the development of the Baldoyle Racecourse Park. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition 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.</p> <p>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.</p>
9.	<p>Water supply and drainage arrangements, including the disposal of surface water and internal basement drainage, shall comply with the requirements</p>

	<p>of Irish Water and the planning authority for such works and services as appropriate.</p> <p>Reason: In the interest of public health and to ensure a proper standard of development.</p>
10.	<p>Prior to commencement of development, 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.</p> <p>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.</p>

Elaine Sullivan
Planning Inspector

17th May 2021