



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312929-22

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<b>Development</b>	Retention permission for a velux window
<b>Location</b>	33 The Willows, River Court, Rathmullan Road, Drogheda, Co. Louth.
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	211490
<b>Applicant(s)</b>	Martin Fealy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Pamela Doyle
<b>Date of Site Inspection</b>	16 <sup>th</sup> April 2022
<b>Inspector</b>	Colin McBride

## **1.0 Site Location and Description**

- 1.1. The appeal site, which has a stated area of 1.05 hectares, is located with an existing housing development, The Willows, which is off River Court and the Rathmullan Road to the west of Drogheda town centre. The site concerns an apartment (no. 33) on the third floor of a four-storey apartment block. The block is four-storeys with the third floor being a mansard type slate roof and is one of three similar blocks on the southern side of the River Boyne.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the retention of a roof light window/balcony in the front elevation of the roof. The window serves an apartment on the third floor of an existing apartment block.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission granted subject to one condition. The condition is standard in nature.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

Planning report (08/02/22): The proposal was considered to be acceptable in terms of visual amenity and to be in accordance with the proper planning and sustainable development of the area. A grant of permission was recommended subject to the condition outlined above.

### **3.3. Prescribed Bodies**

None.

### **3.4. Third Party Observations**

3.4.1 7 no. observations were received from residents/owners of units in The Willows. The issues raised can be summarised as follows...

- Breach of owners lease agreement and covenant associated with the property, structural issues integrity issues and visual impact/continuity.

### **4.0 Planning History**

4.1 No planning history.

### **5.0 Policy Context**

#### **5.1. Development Plan**

The relevant Development Plan is the Louth County Development Plan 2021-2027.

The appeal site is zoned A1 with a stated objective “to protect and enhance the amenity and character of existing residential communities”.

Policy Objective HOU 19: To enhance and develop the fabric of existing urban and rural settlements in accordance with principles of good urban design including the promotion of high quality well-designed visually attractive main entries into our town and villages.

#### **5.4 Natural Heritage Designations**

None within the zone of influence of the project.

#### **5.5 EIA Screening**

The proposed development is not of a class (Schedule 5, Part 2(10) of the Planning and Development Regulations, 2001 (as amended)). No EIAR is required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by Pamela Doyle on behalf of owners/members of Rathmullan Willows Management Ltd, The Willows, River Court, Rathmullan Road, Drogheda, Co. Louth.

Pamela Doyle,

Ian Woods,

Irina Sheridan,

Angela McBennett,

Colm Kearney,

John Branigan,

Anna Karellas

The grounds of appeal are as follows...

- Adverse impact on visual appearance character and design of the existing apartment block.
- The building is owned by a management company and the proposal should have been refused on the basis that the applicant does not own the property and is in breach of legal covenants within the lease agreement he signed. The applicant has not sought or received permission of the adjoining property owners or the Owners Management Company and should be refused.
- The appellants raise concerns regarding structural integrity and compliance with Building Regulations. It is stated that permission should not have been granted without a response from the Building Control section of the Council. The appellants' raise concern about the structural safety of the construction and impact on fire safety.

- The permission to grant sets a precedent for owners to proceed with changes without seeking permission from the Planning Authority or the Management Company.

## 6.2. Planning Authority Response

### 6.2.1 Response by Louth County Council

- The PA states that the proposal would not have an adverse visual impact, which matters concerning the management company/lease conditions are not planning matters and that any Building Control issue can be dealt with retrospectively by the Building Control Section.

## 7.0 Assessment

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Visual Impact

Management Company/Building Control

7.2. Visual Impact:

7.2.1 The proposal is for retention of a roof light window/balcony in the roof plane at third floor level of an existing apartment block. The window is flush to the roof profile of the structure and has 1.735m wide and 2.085m wide. The window splits horizontally to provide for a balcony type arrangement when open. The window replaces a small dormer window. The development is made up of three blocks that have their main orientation north/south with their northern façade facing the River Boyne to the north. The north facade at third floor level features 7 dormer windows consisting of a central wide window with semi-circular profile and to each side 3 no. small dormer windows. The applicant has replaced the dormer window with the roof light which is larger in dimensions to the dormer window replaced. The appellants' have raised

concerns about the visual impact of such due to variation in character and lack of continuity.

7.2.2 The roof light for retention is at variance with the design of the existing block and the continuity of character that is exhibited in the three blocks. I would be of the view that despite such the scale and flush nature of the window to the roof profile is such that the overall visual impact of this feature is neither severe or significant in terms of being a feature that is particularly obtrusive at this location or detrimental to the architectural character of the existing structure and the overall scheme it is in. I would be of the view that the element for retention is satisfactory in terms of its overall visual impact at this location and I see no reason to recommend refusal in this regard.

7.3 Management Company/Building Control:

7.3.1 The appellants raise concerns that the building is owned by a management company and the proposal should have been refused on the basis that the applicant does not own the property and is in breach of legal covenants within the lease agreement he signed and applicant has not sought or received permission from the adjoining property owners or the Owners Management Company. Alterations to apartments may well be subject to the requirement for consent from a management company or other residents. Notwithstanding such this is not a planning consideration and is wholly a matter for the Management Company to address and enforce. The proposal is to be assessed based on planning matters with the main issue concerning visual impact with such addressed above.

7.3.2 The appellants raise concerns regarding structural integrity and compliance with Building Regulations. I would note that the issue of building control and building regulations are not planning considerations either. An Board Pleanala has no function or remit in assessing such. It is up to the Management Company to take the appropriate action to deal with the matters raised with the Board having no function or authority in determining either issues concerning apartment management, which

is the role the management company itself or concerning building regulations or fire safety standards.

## **8.0 Appropriate Assessment**

8.1 Having regard to the nature and scale of the proposed development and its proximity 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.

## **9.0 Recommendation**

9.1. I recommend a grant of permission subject to the following conditions.

## **10.0 Reasons and Considerations**

Having regard to the scale of the window for retention and its design flush to the roof profile of the existing apartment block, the proposed development would not have a significant or prominent visual impact in the surrounding area or have a significant impact on the architectural character of the existing residential scheme it is part of. The proposed development would, therefore, be satisfactory in the context of the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. The development shall be in accordance with the plans and particulars lodged with the application, 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

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Colin McBride  
Senior Planning Inspector

19<sup>th</sup> April 2022