



An  
Bord  
Pleanála

## Inspector's Report ABP-318977-24

<b>Development</b>	Revisions to previously approved reg. ref. F22A/0469 (ABP-315139-22) for alterations to third floor of apartment building to facilitate additional bedrooms and bicycle parking.		
<b>Location</b>	The Elphin, 36 Baldoyle Road, Baldoyle, Dublin 13		
<b>Planning Authority Ref.</b>	Fingal County Council		
<b>Applicant(s)</b>	LDC Developments Ltd.		
<b>Type of Application</b>	Permission.	<b>PA Decision</b>	Grant
<b>Type of Appeal</b>	Third	<b>Appellant</b>	C McDaid.
<b>Observer(s)</b>	None		
<b>Date of Site Inspection</b>	20 <sup>th</sup> June 2024	<b>Inspector</b>	Lucy Roche

## **1.0 Site Location and Description.**

This backland appeal site is located off, and east of, Baldoyle Road and north of the R105 (Dublin Road) in Sutton, Dublin 13. The Elphin public house (No. 36) and Nos. 31-34 Baldoyle Road bound the site to the west. The pub car park and Nos. 86-93 Dublin Road adjoin the site to the south. Houses, Nos. 15-19A and 92 Binn Eadair View, bound the site to the east and north respectively. The surrounding area is predominantly residential.

The site itself has a stated area of 0.28ha. It is accessed via a laneway which runs east from the pub car park and provides a pedestrian link to the Binn Eadair View estate. It also provides access to the rear of some of the houses on the Dublin Road. The site is roughly rectangular in shape and consists of an active construction site with works on a four-storey apartment block almost at completion.

## **2.0 Proposed Development.**

Permission is sought for revisions to previously approved planning permission under Reg. Ref. F22A/0469 (ABP Reg. Ref. PL06F.315139) consisting of the following amendments to the approved scheme:

- (a) Internal alterations to apartment 22 at third floor level to facilitate 1 no. additional bedroom.
- (b) Modifications/ extension to apartment 24 a third-floor level to facilitate 1 no. additional bedroom and the relocation of the living/kitchen/ dining area with balcony to south.
- (c) Provision of 2 no. additional bicycle parking spaces.

The proposed amendments will increase apartment 22 from a one to two-bedroom unit and apartment 24 from a two to three-bedroom unit.

## **3.0 PA's Decision**

Fingal County Council decided to grant permission subject to 3no conditions. The

report of the Case Planner (December 2023) formed the basis of the decision. The report had regard to the context and planning history of the site, to relevant planning policy and to the third-party submissions and interdepartmental reports received. The report considers the zoning objective, integration, and impact on visual and residential amenity of the area, water services, transportation, EIAR and Appropriate Assessment. It concluded that subject to condition, the proposed development would accord with the policies and objectives of the Fingal Development Plan 2023-2029 and would integrate appropriately within the surrounding context without undue impact to the visual or residential amenities of the area. Interdepartmental reports received from the Transport and Water Services Sections cited no objection to the proposal.

#### 4.0 Planning History.

There is a long planning history associated with this site. This is set out on pages 3,4 and 5 of the planning authority's report. The following is of relevance:

***ABP-309777-21 (FCC Ref: F20A/0715)*** – Permission granted on appeal (March 2022) for the demolition of existing warehouse and construction of a three-storey building of 21 no. apartments with 10 no. car parking spaces and access upgrades etc. subject to conditions of a standard nature.

Conditions of note: Condition 4: No additional development above roof parapet unless authorised by a further grant of permission in order to protect residential and visual amenities. Condition 9: 42 no. bicycle parking spaces to be provided in the interests of sustainable transportation.

***ABP 315139-22 (FCC Ref: F22A/0469):*** - *Permission granted on appeal (2023) for modifications to a previously permitted development under PA ref. F20A/0715 (ABP-309777-21) consisting of an additional fourth floor with 3 no. apartments, and additional bicycle spaces.*

Condition of note: Condition 3 omitted a fourth apartment at the northern end of the third floor for reasons visual and residential amenity.

## 5.0 National/Regional/Local Planning Policy

- The Fingal Development Plan 2023-2029 came into effect on 5th of April 2023 and is the operative plan for the area. It has regard to national and regional policies in respect of new residential development.
- The appeal site is zoned 'LC' Local Centre with a zoning objective to '*Protect, provide for and/or improve local centre facilities*'. Residential uses are amongst the development types 'permitted in principle' in this zoning.
- The appeal site abuts housing with a zoning objective to '*Provide for residential development and protect and improve residential amenity*'.
- *Chapter 14* sets out the Development Management Standards for the plan area.
- The following Section 28 Ministerial Guidelines are considered relevant:
  - Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)
  - Design Standards for New Apartments Guidelines for Planning Authorities - (July 2023)

## 5.1 Natural Heritage Designations

The appeal site is located c100m to the north of the North Bull Island SPA (004006) and North Dublin Bay SAC (000206) and c400m to the southwest of the Baldoyle Bay SPA (004016) and SAC (000199).

## 6.0 The Appeal

### 6.1 Third Party Appeal.

The grounds of the third-party appeal can be summarised as follows:

- The proposed extension of apartment 24 will overlook and compromises the private back garden space of the residents of Dublin Road.
- The new extended apartment will be an imposing feature which detracts from the view from the rear of the appellants house and garden. (No.92 Dublin Road).

- The increased southern projection in height and scale together with the virtual elimination of the south facing setback, will lead to further damage to the visual and residential amenity of the area.
- The appeal submission references the decision of FCC to refuse permission for the development proposed under F22A/0469, comments made by the Planning Inspector and Board in the determination of the appeal (ABP-315139-22) and FCC reasoning for granting permission for the proposed development.

## **6.2 Applicants Response:**

- The arguments raised in the appeal are not supported by any evidence-based analysis carried out by qualified persons.
- The decision to grant by FCC is based on analysis of the development proposals by suitably qualified persons who have given full assessment to the planning application and have included assessment of third-party submissions.
- FCC have determined that the development is compliant with FDP policy objectives and with the sustainable development of the area.
- The density of the site is appropriate to national, regional, and local planning policy as well as S.28 Ministerial Guidelines.

## **6.3 Planning Authority Response**

The Planning Authority remains of the opinion that having regard to the planning history and subject to condition the proposed development is acceptable and would integrate appropriately within the surrounding context without undue impact to the visual or residential amenities of the area.

## **7.0 EIA Screening:**

See completed EIA Pre-Screening and Preliminary Examination form on file. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary

examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## **8.0 AA Screening**

I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000, as amended. I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The planning history of the site, in particular the extant planning permissions ABP-309777-21 and ABP 315139-22 which were screened for appropriate assessment.
- The small scale and nature of the development proposed.
- The location of the project, the distance from nearest European site and the lack of connections between the protect and designated sites.
- The AA screening determination of Fingal County Council

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **9.0 Assessment**

### **9.1. Introduction**

9.1.1. Having examined the application details and all other documentation on the appeal file, including the appeal submission, and inspected the site, and having regard to relevant local, regional, and national policies and guidance, I consider that the main issues in this appeal are those raised in the ground of appeal, namely the impact of the proposed modifications and extension to Apartment No.24 on the visual amenities of the area and on the residential amenities of neighbouring properties on Dublin Road. I intend to consider the appeal under the following headings:

- Preliminary Points
- Alterations to Apartment No.24
- Daylight / Sunlight
- Appropriate Assessment

## **9.2. Preliminary Points:**

- 9.2.1. The principle of an apartment scheme on this site was established on foot of the extant permission ABP-309777-21 (PA ref. F20A/0715). This appeal is restricted to assessing whether the proposed modifications to this permitted development, consisting of internal alterations to apartment 22, modifications and extension to apartment 24 and the provision of 2no additional bicycle parking spaces, is in accordance with proper planning and sustainable development.
- 9.2.2. The extant permission allows for the construction of a four-storey apartment block containing 24 apartments on lands to the rear of the Elfin public house. The fourth storey (third floor level) of the apartment block as permitted under ABP 315139-22 contains three apartments that are set back from the north, east and south facing elevations. Permission is now sought for revisions to two of the three apartments at third floor level, namely apartments 22 and 24.
- 9.2.3. Apartment 22 is to be extended internally to incorporate a lobby area that was originally intended to be shared space between apartment 22 and a second apartment omitted by condition under ABP 315139-22. All proposed amendments are internal with no impacts on the visual amenities of the area or residential amenities of adjoining properties anticipated.
- 9.2.4. Apartment 24 is to be modified and extended to facilitate the addition of 1no bedroom together with the relocation of the living/kitchen and dining area serving this apartment. A new, additional, balcony is proposed on the southern elevation, off the main living area. It is these proposed works that form the basis of the appeal, I intend to address the issues raised in the following sections of this report.
- 9.2.5. The proposed amendments will increase apartment 22 from a one to a two bedroom (3 person) and apartment 24 from a two to three-bedroom unit (5 person). I am satisfied on the basis of the plans and particulars submitted with the application,

including the 'Schedule of Areas', that the proposed apartments would accord with the standards set out in the Apartment Guidelines. In this regard I note that the proposed scheme includes for the provision of 2no. additional bicycle parking spaces to cater for the 2no. additional bedrooms in accordance with the recommendations set out in Section 14.7 of the guidelines (2023).

### **9.3. Alterations to Apartment No.24**

- 9.3.1. Apartment 24 as currently permitted, comprises a two-bedroom apartment at third floor level on the southern end of the apartment block. The unit is setback approximately 8m from the building's southernmost elevation, it has a gross floor area of 75sqm, and is served by a balcony on its southern elevation. It is proposed to extend the apartment to the southeast increasing its floor area by approximately 47.3sqm (122.3sqm GFA as stated), while retaining a partial set back of c1.9m.
- 9.3.2. While I acknowledge that the proposed works would increase the mass of the apartment block at its southern end; the proposed works are, I consider, relatively minor and are in keeping with the overall mass, scale, height and design of the permitted block. Views from public areas towards the apartment block are restricted due to the site's backland location and the surrounding urban landscape. In my opinion, the proposed works would not alter the appearance of the apartment block to the degree that it would appear incongruous in this urban setting or detract significantly from the visual amenities or character of the area.
- 9.3.3. In terms of overbearance, I note that the proposed extended apartment will be set back more than 10m from the rear, northern site boundary of existing residential properties on Dublin Road and that these properties are served by long rear gardens. A minimum separation distance of 13.9m is available between the proposed development and the shared boundary with Binn Eadair View to the east. The separation distances available together with the retention of a c1.9m setback, should I consider be sufficient to mitigate any significant overbearing impacts.
- 9.3.4. In terms of overlooking, I note that the proposed extension includes a new corner window on the east elevation, an additional window on the west elevation and an additional balcony on its southern elevation (served by glazed patio doors). All of which serve the main living / dining / kitchen of apartment 24 and all of which correspond with existing openings / balconies on lower floors. Given the location of

the apartment 24 at third floor level, there are no directly opposing windows; however, it is of relevance to note that separation distances in excess of 22 metres between apartment 24 (as proposed) and the rear elevations of neighbouring houses are achieved in all cases. Having regard to the existing permitted development on site and the separation distances available, the extent of any new overlooking of neighbouring residential properties resulting from the proposed works is I consider unlikely to be significant.

- 9.3.5. In conclusion, having reviewed the plans and particulars submitted with the application and appeal, and having inspected the site I am satisfied that the proposed revisions to apartment 24 would not result in any new undue impacts on the visual amenities of the area or the residential amenities of adjoining properties by way of overbearing / visual intrusion or overlooking.

#### **9.4. Daylight / Sunlight**

- 9.4.1. A revised Daylight and Sunlight Assessment was submitted with the application. This document assesses the impact of the proposed development for daylight and sunlight on the buildings and amenity areas of neighbouring residential properties to the east, north and west of the appeal site. In terms of daylight, Section 3.4 of the report finds that there will be no significant reduction in daylight between the permitted and now proposed development and that any reduction in the daylight in neighbouring dwellings would be minor and not likely be perceived. In terms of sunlight to existing houses, the report assesses the potential impact of the proposed development on the Annual and Winter Probable Sunlight Hours (APSH and WPSH) on all windows that faces within 90° due south of the proposed scheme. For comparison, the report shows the results for this current proposal in Tables 8 and 8 and the results of the permitted development in Tables 10 and 11. Section 4.2 of the report concludes that there will be no significant changes in sunlight to the adjacent houses from the proposal. In terms of sunlight to existing gardens and open spaces, Table 12 of the report indicates that at least 50% of open space for all assessed properties in Binn Eadair View and along the Baldoyle Road will receive at least 2 hours sunlight on 21st March and none drop below 0.80 times the former value. On the basis of the information available, I am satisfied that any potential impacts arising from the proposed amendments on daylight and sunlight, beyond what was

previously deemed to be acceptable, would be minor to the degree that would not warrant a refusal or redesign.

## 10.0 Recommendation

I recommend that permission for the development be granted.

## 11.0 Reasons & Considerations

Having regard to the provisions of the Fingal County Development Plan 2023-2029, the location and planning history of the site, the nature, scale and layout of the development proposed and the separations distances available between the proposed works and adjoining properties it is considered that subject to compliance with the conditions set out below, the proposed development would not materially contravene the Development Plan, would not seriously injure the visual amenities of the area or the residential amenities of adjoining properties and would provide an acceptable level of residential amenity for future occupants. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

1. The development shall be carried out and completed 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 and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** in the interests of clarity

2. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permissions granted under An Bord Pleanála reference number ABP309777-21 (planning register reference number F20A/715) and

An Bord Pleanála reference number ABP315139-22 (planning register reference number F22A/0469), and any agreements entered into thereunder.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).

3. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid 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.

**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.

*I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.*

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Lucy Roche

Planning Inspector

27<sup>th</sup> June 2024

## Appendix 1

### EIA Pre-Screening and Preliminary Examination

<b>An Bord Pleanála</b> <b>Case Reference</b>	<b>ABP318977-24</b>			
<b>Proposed Development Summary</b>	Revisions to previously approved reg. ref. F22A/0469 (ABP-315139-22) for alterations to third floor of apartment building to facilitate additional bedrooms and bicycle parking.			
<b>Development Address</b>	The Elphin, 36 Baldoyle Road, Baldoyle, Dublin 13			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	<b>X</b>	
		<b>No</b>		
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>		Class.....	EIA Mandatory EIAR required	
<b>No</b>	<b>X</b>		Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>		N/A		No EIAR or Preliminary Examination required
<b>Yes</b>	<b>X</b>	10 (b)(i): Construction of more than 500 dwelling units  10 (b)(iv): Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case		Proceed to Q.4

		of other parts of a built-up area and 20 hectares elsewhere.		
<b>4. Has Schedule 7A information been submitted?</b>				
<b>No</b>	<b>X</b>	<b>Preliminary Examination required</b>		
<b>Yes</b>		<b>Screening Determination required</b>		
<b>5. EIA – Preliminary Examination</b>				
				<b>Yes / No / Uncertain</b>
<b>1. Is the size or nature of the proposed development exceptional in the context of the existing environment?</b>				No
<b>2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?</b>				No
<b>3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*?</b>				No
<b>4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?</b>				No
<b>Comment (if relevant)</b>				
<b>6. Conclusion</b>				
<b>Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment **?</b>				
There is no real likelihood of significant effects on the environment		EIAR not required		X
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment		Screening Determination required		
		Sch 7A information submitted?		
There is a real likelihood of significant effects on the environment		EIAR is required (Issue notification)		

Inspector \_\_\_\_\_ Date: \_\_\_\_\_