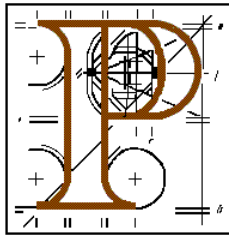


An Bord Pleanála



Inspector's Report

Appeal Reference No: 29S.245822

Development: Change of use from residential to embassy office with all associated site works.

Location: 58 Eglinton Road, Donnybrook, Dublin 4.

Planning Application

Planning Authority: Dublin City Council

Planning Authority Reg. Ref.: 3591/15

Applicant: Stanley Watson

Planning Authority Decision: Grant Permission

Planning Appeal

Appellant(s): Chris Jones

Type of Appeal: Third Party

Date of Site Inspection: 17th and 24th February, 2016.

Inspector: Stephen Kay

1.0 SITE LOCATION AND DESCRIPTION

The appeal site is located on Eglinton Road in Donnybrook which connects Sandford Road with Donnybrook Road. The road is characterised by large detached dwellings which are primarily two storey over garden level properties with red brick elevations to the road. The character of the area is residential and there are no office or commercial premises located in close proximity to the appeal site.

The dwelling on the appeal site is a two storey over garden level red brick house with a stated floor area of 378 sq. metres. The site is large with a stated area of 828 sq. metres. The house on the site is currently in residential use.

The site has off street parking area accessed via a vehicular access located at the western end of the site frontage. The existing layout has two dedicated parking spaces located inside the gate and this layout is indicated on the submitted site plan. Eglinton Road also has on street car parking in bays.

2.0 PROPOSED DEVELOPMENT

The proposed development comprises the change of use of the structure on the site from residential use to use as an office connected with an embassy. The application documentation indicates that the intended occupant of the building is the embassy of Latvia.

In addition to the proposed change of use limited physical works are proposed to the structure. These works comprise the conversion of an existing window opening into a door opening at lower ground floor level to create an access for visiting members of the public to the embassy public office. The other significant alteration is internally with the addition of a fire safety partition to the staircase at the eastern side of the building.

The application is accompanied by a design statement which sets out that the ground floor area will accommodate the reception and general administration use. The first floor is proposed to have a meeting room and senior administrative staff and the second floor to be the Ambassadors suite. The design statement states that the proposed hours of opening to the public are 10.00 to 13.00 Monday, Wednesday and Friday and 13.00 to 16.00 Tuesday and Thursday. Visits are by appointment only and based on the existing level of visits to the current premises in St Stephens Green the level of visits is stated to be c. 4-5 per day.

3.0 PLANNING HISTORY

- Dublin City Council Ref. 6445/07 – Permission granted by the Planning Authority for the removal of a shed / store located to the side of the dwelling and the construction of an extension to the rear with a floor area of 51 sq. metres.
- Dublin City Council Ref. 4021/99 – Permission granted by the Planning Authority for alteration to windows in the rear return of the house and the construction of two extensions to the rear at basement level and construction of a patio area.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

Planning Officer - The report of the Planning Officer notes the objection received and the nature of the use and works proposed. The physical works are considered to be minor. The proposed layout of the building and the nature of the use including restricted visiting / opening times and the fact that visits are to be by appointment only is noted. Overall, the proposed change of use is considered to be acceptable and not such that it would seriously injure the amenities of the area or of property in the vicinity. A grant of permission consistent with the notification of decision which issued is recommended.

Drainage Division – No objection subject to conditions.

Roads and Traffic Planning Division – No objection subject to conditions.

4.2 Planning Authority Decision

A Notification of decision to Grant Permission was issued by the Planning Authority subject to 8 no. conditions which are general standard in nature and scope. Condition No. 2 specifies that the permitted use is for embassy office use only and that no other office use is permissible. Condition No.3 requires that in the event of the cessation of the use of the building as an embassy that it would revert to residential use.

5.0 GROUNDS OF APPEAL

A third party appeal submissions against the Notification of Decision to Grant Permission has been received. The following is a summary of the main issues raised in this appeal submission:

- That the proposed embassy office use is only open for consideration on lands zoned Objective Z2.
- That the Z2 zoning objective commits the planning authority to protect the residential character of the area. It has failed to do so in making this decision.
- That the proposed use would, if permitted be the first such use on the road.
- That contrary to the statement of the applicant, the appeal site is not within the embassy belt. This area is located around Ailesbury Road / Merrion Road.
- That offices where public access is required are generally located on public transport routes. This is not the case with the appeal site.
- That the information submitted with the application refers to 15 visitors within a three hour session / opening. This level of usage as well as the change in the use and occupancy of the building from residential to office will have impacts on surrounding residential uses in terms of traffic, overlooking and general disturbance from staff and visitors coming and going. These impacts would be inconsistent with the conservation area status of the area and the residential zoning objective of the site.

6.0 RESPONSES / OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority Response

No response on file.

6.2 First Party Response

The following is a summary of the main issues raised in the first party response to the grounds of appeal:

- That Eglinton Road is not a road of red brick houses entirely in residential use as suggested by the third party appellants. It has a

variety of built forms including infill apartment developments such as the adjoining Eglinton Court apartment development.

- That there are also a variety of other uses on the road including dental surgery and specialist medical surgeries and private office accommodation. These uses have full planning permission and give a variety to the area which does not detract from its character as a residential conservation area.
- That there is no prohibition on embassy use under the Z2 land use zoning objective. Embassy office use is simply not the same in nature or impact as a general commercial office use would be and has a much lower intensity of use. The level of visits would be a maximum of 15 per day at peak periods and an average of 4-5 per day.
- That there is car and cycle parking available on site that meets the development plan requirements. The site is within 5-10 minutes of the main QBC routes. There is also on street metered parking available. LUAS and DART are both within 20-25 minutes' walk of the site.
- That the scale of property such as that on the appeal site do not meet modern living requirements in terms of fire safety, accessibility and ongoing maintenance and repair costs. The proposed embassy use is a use which would have a very limited physical impact on the building or impact on surrounding properties or the character of the area. It is considered therefore to be an ideal use to secure the future protection of this property.

7.0 POLICY CONTEXT

The appeal site is located on lands that are zoned Objective Z2 '*to protect, and or improve the amenities of residential conservation areas*' under the provisions of the *Dublin City Development Plan, 2011-2017*. Under this land use zoning objective Embassy Office is listed as an open for consideration use. Embassy residential is listed as a Permissible use. General office use is not listed and so is deemed to be not permissible.

The building on the appeal site is not included in the Record of Protected Structures for Dublin City.

Paragraph 17.21 of the Plan relates to embassies and states that where permission is granted for the use of part of a dwelling as a residential embassy such permission shall be regarded as limited to the period of use as an embassy and shall revert to residential use on cessation of the embassy use.

8.0 ASSESSMENT

The following are the main issues arising in the assessment of the subject appeal:

- Principle of Development
- Impact on Residential Amenity
- Impact on Building of proposed works
- Other Issues

8.1 Principle of Development

8.1.1 The appeal site is located in an area that is zoned Objective Z2 '*to protect, and or improve the amenities of residential conservation areas*' under the provisions of the *Dublin City Development Plan, 2011-2017*. Embassy office use is identified as an open for consideration use on lands that are zoned for Objective Z2 and the principle of the change of use of the building on site from residential use to use as an embassy office is therefore possible under the land use zoning objective. Paragraph 15.6 of the development plan states the open for consideration uses may be permitted where the planning authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects on permitted uses and would otherwise be consistent with the proper planning and sustainable development of the area. These issues are considered in more detail in the sections below.

8.1.2 The property on the appeal site is not a protected structure and the site is not located in an architectural conservation area. There is not therefore any specific considerations relating to the impact of the development on the character, architectural integrity or appearance of the structure to be considered.

8.1.3 Regarding precedent, it is apparent that there are no other embassy uses on the road at present and that the extent of commercial uses, particularly above garden or ground level commercial uses in properties on the road is very limited.

8.1.4 The first part has made the case that the proposed use is a method for the property to be put into beneficial use and that the practicalities of maintaining a property of this scale mitigate against its retention in residential use. From an inspection of the site it is noted that the property is not currently occupied

and it is not clear from the information available when it was last in residential use. Despite not being occupied the property is generally in very good condition and is currently well maintained.

8.2 Impact on Residential Amenity

- 8.2.1 The third party appellant contends that the proposed development would have an adverse impact on residential amenity by virtue of the change of use leading to an intensity in the use of the site, additional visitors and also the use of upper floors for office accommodation leading to issues of overlooking. It is contended that the established character of the area is residential and that the proposed development would, if permitted be the first such non-residential use on the road and would fail to protect the residential character of the area as required by the land use zoning objective. In response the first party has set out how there are a number, albeit limited, of other non-residential uses on the road, including dentists and doctors surgeries. From an inspection of the area, I agree that there are a number of other non-residential uses on the road and would therefore agree with the first party that it is not a situation as cited by the appellants where the only use is residential. Against this, the proposed use involves the occupation of the upper floors as office accommodation and the configuration of the return at the rear is such that a number of the rooms proposed to be in office use would overlook the adjoining property to the west. In this respect the proposed development would appear to differ from other existing non-residential uses in the vicinity.
- 8.2.2 Notwithstanding the above, regard also has to be had to the scale and layout of the buildings on the street and also to the nature of the use proposed. The buildings and sites are large and are such that their use for a purpose that would attract visiting members of the public would not have a direct impact on adjoining properties. As highlighted by the first party, on-site parking is available and there is additional on street parking along the road which could be used by visiting members of the public.
- 8.2.3 In order to have a potentially significant adverse impact on residential amenity development would, in my opinion have to be of a significant intensity. The nature of the activity as described by the applicants is not in my opinion such that it could reasonably be considered to be of an intensity that residential amenity would be adversely affected by visitors to the site. The first party has stated that the maximum level of visitor appointments would be approximately 15 on a busy day and that an average level of visitor numbers would be 4-5 per day. Visits are only by appointment and so there is unlikely to be a significant exceedance of these levels and the figures cited are based on experience of the operation of the existing embassy site in St

Stephen's Green. The proposed hours of opening of the development to visiting members of the public is proposed to be limited to 3 hours per day and so the overall intensity of use of the site is restricted. It is noted that the Notification of Decision to Grant Permission issued by the Planning Authority did not limit the hours of opening to the public by way of condition and in the event of a grant of permission it is considered appropriate that such a condition would be attached. Overall therefore having regard to the level of visitors to the site and the site layout I do not consider that the use of the site by visiting members of the public could be considered to have an adverse impact on residential amenity or on the character of the area. As such the proposed use is in my opinion consistent with the Objective Z2 (Residential Conservation Area) zoning objective of the site.

8.2.4 The appellants have also raised concerns regarding the impact of the proposed change of use in terms of overlooking and loss of privacy. The change of use proposed would introduce a more intensive use of upper floor rooms than is likely with a solely residential use and the configuration of the accommodation at upper levels is such that there would be potential overlooking of the property to the west (No.60). Regard also has to be had to the intensity of use of the proposed office accommodation and also to the fact that while there is overlooking of the adjoining site from these windows there is limited direct overlooking of windows in No.60. The separation distance to properties to the rear is very significant and such that no direct overlooking of adjoining properties would arise. Similarly, no physical works or extension to the property is proposed that would give rise to any overlooking issues. The proposed use would potentially lead to increased overlooking and loss of privacy of the gardens of the properties on either side of the appeal site however I do not consider that any such impact would be significant or likely to significantly impact on overall residential amenity.

8.3 Impact on Building of Proposed Works

8.3.1 The extent of physical works proposed to the building on the appeal site is limited and the only alteration to the external appearance is the opening out of an existing window at lower ground floor level to create a door access to the reception area of the embassy. This alteration would not be clearly visible from the street and would not impact on the front elevation of the building. As noted in section 7.0, the building on site is not included on the record of protected structures and I consider that the external works proposed to accommodate the proposed embassy use are acceptable.

8.3.2 A number of relatively minor internal alterations including the provision of fire safety measures around the staircase are proposed internally. These works are considered to be acceptable.

8.4 Other Issues

- 8.4.1 Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

9.0 CONCLUSIONS AND RECOMMENDATION

It is considered that the proposed development should be granted for the reasons and considerations hereunder.

REASONS AND CONSIDERATIONS

Having regard to the residential zoning objective for the area and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

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 interest of clarity.

2. The use of the building hereby permitted is for embassy office use only and no other office use is authorised without a prior grant of planning permission.

Reason: In the interests of clarity and protection of residential amenity.

3. In the event of the cessation of the embassy office use on the site the building shall revert to residential use.

Reason: In the interests of clarity and protection of residential amenity.

4. Site development and building works shall be carried out only between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

5. The hours of opening of the offices to the public shall be restricted to between 10.00 hours and 13.00 hours Monday, Wednesday and Friday and between 13.00 hours and 16.00 hours on Tuesday and Thursday. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of the residential amenities of property in the vicinity.

Stephen Kay

Inspectorate

Date 29th February, 2016