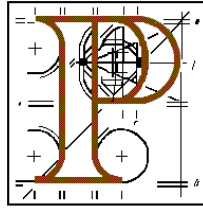


An Bord Pleanála



Inspector's Report

Appeal Ref. PL 29S.245775

Location: Block ABC, Digital Hub Complex, Thomas Street, Dublin 8.

Proposed Development: Change of use of 1 no. student common room to an office unit.

Planning Application

Planning Authority: Dublin City Council.

Planning Authority Reg. Ref.: 3528/15

Applicant: Targeted Investment Opportunities Limited

Application Type: Permission

Planning Authority Decision: Refuse permission

Planning Appeal

Appellant(s): Targeted Investment Opportunities Limited

Observers: None

Date of Site Inspection: 17th February, 2016

Inspector: Stephen Kay

1.0 Site Location and Description

- 1.1 The appeal site is located to the north of Thomas Street and forms part of a larger site that includes the Digital Hub area. The site forms part of a student development which is currently under construction and which will provide a total of 471 no. student bedspaces on completion. The permitted layout of this student development incorporates two common rooms within the development and the current proposal is for the conversion of the larger of these two areas into an office.
- 1.2 The layout of the permitted development incorporates two blocks located wither side of a new street Roes lane running south west from Bonham Street. The area which is the subject of this appeal is located on the Upper Ground Floor of Block ABC which is on the western side of Roes Lane. The area in question is located at the southern end of the building footprint and is in an L shape. The stated area of this space is 175 sq. metres.

2.0 Proposed Development

The proposed development comprises the change of use of the common room area located on the upper ground floor of Block ABC from use as a common room serving the student development to office use.

The office use envisaged for the site is not specified however the site is located within the Digital Hub area and the application is accompanied by a letter from the CEO of the Digital Hub stating that there is currently an increased demand for office accommodation in the area and that the unit the subject of this appeal would be ideally suited to meeting this demand.

The stated area of the accommodation to which the change of use relates is 175 sq. metres.

No elevational changes or other physical works are proposed to the building.

3.0 Planning History

The following planning history relates to the appeal site and surrounding lands:

Dublin City Council Ref. 3191/13: Permission granted by the Planning Authority for demolition of existing single storey warehouse building, demolition of boundary wall along site boundary on Bonham Street and provision of 100 student accommodation units (493 bedspaces) and associated uses comprising 14,846m² gross floorspace in two blocks (Blocks E and F), together with 229.5m² of office/retail/cafe/restaurant/financial services floorspace for use by Digital Hub at upper ground floor level of Blocks E and F and 1,749m²

of office and associated floorspace for digital media in existing grain store building to be refurbished (total floorspace to be 16,824.71m²); The development also incorporated new pedestrian link from Bonham Street known as Roe's Lane terminating in a new public space known as Roe's Place; two new landscaped open spaces also to be provided, comprising 582.2m² to west of Block E at upper ground level and 394.6m² to east of Block F at upper and lower ground levels; development to include internal switch and sub stations, all site development works, landscaping, waste management facilities and all other ancillary works. Five of the student accommodation units were omitted by condition.

Dublin City Council Ref. 4733/08; ABP Ref. PL29S.233466: Permission granted by the Planning Authority and decision upheld on appeal for development on a 1.49 ha site known as the Windmill site at Digital Hub, Thomas Street and incorporating the current appeal site. The development involves alterations and refurbishment of no. 164 Thomas Street (protected structure) and alterations, partial demolition and retention of a number of existing buildings on site including warehouse located at junction of Watling Street and Bonham Street, Digital Depot and former grain store buildings and existing Bank of Ireland building (no. 85 James Street) as well as demolition of a structure to rear of site fronting Bonham Street; construction of mixed use development in 9 blocks ranging between 5 and 9 storeys and comprising 13,378m² gross of office space and associated floor space for digital media; 1,578m² gross of retail floor space; 2,366m² of commercial floorspace; 240m² of private office floorspace; 396m² gross of financial services floor space; 103 student accommodation units (675 bedrooms) and associated ancillary areas (19,501m² gross) and a 181 bedroom hotel (9,532m² gross); total gross floor area of development is 48,667m²; 139 car parking spaces provided within a single level basement at northern end of site and 516 bicycle spaces at surface and basement levels.

4.0 Planning Authority Assessment and Decision

4.1 Internal Reports

Planning Officer – The report of the planning officer notes the history of the site and particularly the further information which was requested under ref. 3191/13 where it was requested that additional communal space be provided for the student accommodation. Refusal of permission consistent with the Notification of Decision which issued is recommended.

Drainage Division – No objection.

4.2 Notification of Decision

A Notification of decision to Refuse Permission was issued by the Planning Authority and the following summarises the reason for refusal cited:

1. That the proposal would result in the loss of a common room which forms part of the shared recreational facilities in the 471 bedroom student development as required under Appendix 23 of the Dublin City Development Plan (2011-2017) which sets out standards for student accommodation. The proposed development would therefore be contrary to the provisions of the development plan relating to student accommodation, to the residential amenities of student accommodation units and to the proper planning and sustainable development of the area.

5.0 Grounds of Appeal

A first party appeal has been submitted and the following is a summary of the main issues raised in this appeal submission:

- That the development as permitted comprises 471 student bedspaces. It is well served with a range of leisure and recreational facilities including common room (105 sq. metres), green roofs, roof terraces and multi faith room.
- The development is also well served with external open space including Roe's Place and the courtyards to the rear of Block ABC and Block DE. In total, excluding the second common room which is proposed to be the subject of a change of use, the level of open space / recreational amenity space proposed is over 6 sq. metres per bedspace.
- The level of amenity / recreational space per bedspace meets the level that applies to residential developments.
- That the level of ancillary amenities per bedspace is 0.65 sq. metres and open space per bedspace is 5.56 giving a total of 6.2 sq. metres per bedspace.
- That the Digital Hub development Agency have determined that there is a demand for office space in the area. A letter of support from the CEO of the Digital Hub was attached with the application.
- That office use is consistent with the land use zoning objective Z5.
- That the development would be consistent with a number of policies set out in the plan relating to the Digital Hub including Policy SC1, RE18.

- That the range of facilities provided on the site is consistent with the requirements of Appendix 23 of the Plan. The plan does not specify a level of shared communal space / common room areas to be provided in developments.
- The proposed change of use is consistent with the Liberties LAP, 2009.
- That there are a number of precedents of relevance to the subject appeal. These include the student development at Dorset Street that has a similar number of bedspaces as the subject proposal and has a common room of 127 sq. metres and gym of 177 sq. metres. The subject proposal has a level of open space and amenity space provision per bedspace that exceeds similar permitted development at Church Street and Gardiner Street.
- Based on the above, it is submitted that the second common room is surplus to requirements and that permission should be granted to convert this space to office use.

6.0 Response Submissions

6.1 Planning Authority Response to Grounds of Appeal

No response on file.

7.0 Development Plan Policy and Guidance

Dublin City Development Plan, 2011-2017

The appeal site is located on lands that are zoned Objective Z5 under the provisions of the Dublin City Development Plan, 2011-2017. The zone has the stated objective '*to consolidate and facilitate the development of the central area and to identify, reinforce and strengthen and protect its civic design character and dignity*'. Office is a Permitted in Principle use on lands zoned Objective Z5.

Policy SC1 seeks to consolidate and enhance the inner city by linking development areas including the Digital Hub with each other and with regeneration areas.

Policy RE18 seeks to encourage the development of clusters within the city and the generation of competitiveness, productivity and innovation.

Appendix 23 of the City development Plan relates to student accommodation. Specific standards with regard to bedrooms are prescribed. No specific standard for communal space or common rooms is specified.

Draft Dublin City Development Plan, 2016-2022

Under the Draft Dublin City Development Plan the following is stated with regard to open space:

'Adequate open space of suitable orientation should be provided within developments for the amenity of students, which can include terraces, courtyards and roof gardens where appropriate. All proposals must provide appropriate indoor and outdoor communal and recreational facilities for students at a combined level of at least 5 – 7 sq. metres per bedspace.'

8.0 Assessment

The main issues arising are considered to be as follows:

- Principle of Development
- Impact on Amenity
- Other Issues

8.1 Principle of Development

8.1.1 The appeal site is located on lands that are zoned Objective Z5 under the provisions of the Dublin City Development Plan, 2011 – 2017. This zoning objective is not proposed to be amended under the Draft Dublin City Development Plan which has recently completed its public display period. Under the Z5 zoning objective an office use is permissible in principle.

8.1.2 The first party has pointed to a number of provisions of the development plan which support the development of enterprise and employment, including Policies SC1 and RE18. Both of these policies make reference to the Digital Hub area in which the appeal site is located. The importance of the digital hub as an area of enterprise and employment is recognised and I do not doubt that an office based industry use that would accord with the activities promoted by the digital hub would be an appropriate use for the site in question. In this regard I note the content of the letter from the CEO of the digital hub which supports the provision of additional office accommodation and the change of use proposed.

8.1.3 While the change of use to office would undoubtedly be desirable from an employment perspective, the most significant issue in the assessment of the proposed change of use is in my opinion the impact that such a change of use would have on the overall level of amenity provided to the student accommodation on site. It is on this criteria that the proposed change of use should be assessed. In the assessment it is also in my opinion appropriate to have regard to the fact that the parent permission on this site and the original application (Ref.

3191/08) proposed that the floorspace the subject of the current appeal would be used for an office / retail / café use. This was questioned by the Planning Authority who considered the amenity / communal space provision to be inadequate to serve the quantum of residential accommodation proposed.

- 8.1.4 In terms of the provision of amenity space and the principle of the change of use proposed I would also note the fact that the appeal site is located such that it is not close to other significant amenity spaces or facilities and that, with the exception of NCAD, it is not close to a third level campus. This location in my opinion makes it appropriate that student accommodation provided in this location would be well served by high quality on site amenity and open space areas, both indoor and outdoor.
- 8.1.5 Finally, it is worth noting that under ref. 4733/08 (ABP Ref. PL29S.233466), a mixed use development incorporating a total of 103 no. student accommodation units was permitted on lands within the Digital Hub and to the south of the current appeal site.

8.2 Impact on Residential Amenity

- 8.2.1 The basis of the refusal of permission is that the proposed change of use would have an adverse effect on the residential amenity of residents of the student accommodation and would be contrary to the guidelines in appendix 23. In reaching this conclusion, the report of the planning Officer seems to significantly rely on the fact that the floorspace was changed to common room use as part of the previous application.
- 8.2.2 There are no specific standards contained in the Development Plan or other relevant guidance with regard to the appropriate level of amenity or communal space to be provided in student accommodation developments. The layout of the accommodation provided comprises units comprising 4 or 5 en suite bedrooms each with their own access from communal areas and with a separate sitting room / kitchen area. Appendix 23 of the current City development Plan sets out the standards for student accommodation and it is noted that no specific quantitative standard for open space or communal facilities is specified. Appendix 23 does state that '*all proposals for student accommodation shall provide appropriate indoor and outdoor communal and recreational facilities for the amenity of the students*'. Reference is also made in Appendix 23 to the Department of Education and Science document 'Guidelines on Residential development for Third Level Students' (1999) however there are no quantitative standards for amenity or communal space set out in this document other than a statement that such areas should not exceed 12 percent of the overall area of the development or 12 percent of the overall expenditure.
- 8.2.3 The case made by the first party essentially is that the level of open space and amenity space provided as part of the development would work out at c. 6.2 sq. metres per bedspace and that such a level

compares favourably with the 5-8 sq. metres per bedspace of amenity space required under the development plan per bedspace for standard apartment accommodation. It is also contended that the level of open and amenity space provision compares favourably with that provided in other permitted student accommodation developments in Dublin City, namely those at Dorset Street, Gardiner Street (Ref. 3611/14) and Church Street (Ref. 2990/14).

- 8.2.4 With regard to the case made by the first party comparing the development with the residential standard it is agreed that the proposed development would meet the minimum requirement for a standard residential unit. I would also note the fact that the proposed development would be consistent with the provisions of the current Draft Dublin City Development Plan. Paragraph 16.10.7 of this Draft Plan requires that all student accommodation developments must provide appropriate indoor and outdoor communal and recreational facilities for students at a combined level of at least 5 – 7 sq. metres per bedspace. The proposed development would meet this standard.
- 8.2.5 While the proposal would be consistent with the minimum standard set out in the current plan for residential development and the draft plan relating to student accommodation there are a number of aspects which are of concern. Firstly, the nature of the accommodation as student accommodation and the location of the development separate from any campus and in an area that is not particularly well served with amenity space is such that the balance between open space in the normal sense and what could be called ancillary on site amenities (gym, common rooms, laundry etc.) is one which, in my opinion, requires careful consideration. The appeal site and proposed development is configured such that the bulk of the total area serving the development is open space rather than ancillary spaces or amenities. This is inevitable but even relative to the other permitted developments cited by the first party in their appeal submission it is notable that the level of ancillary amenity space proposed for the appeal site with the omission of the second common room is low relative to the other developments. For example, the Dorset Street and Gardiner Street developments cited in the appeal submission are of very similar scale to the appeal site in terms of the number of bedspaces at 447 and 491 respectively. The level of ancillary amenity floorspace provided in these developments is however 1.6 and 2.4 times respectively that which would be provided on the appeal site.
- 8.2.6 As stated above, the appeal site relies significantly on external amenity space to provide amenity for residents of the development. The provision of such space is appropriate and in accordance with the provisions of the development plan and the Department of Education and Science Guidelines however it is my opinion that in the case of the appeal site the omission of the second common room would result in an excessive reliance on external shared amenity space. I would also highlight the fact that a significant component of what is counted by the first party as open space comprises Roe's place (969 sq. metres) which is a shared surface that would appear from the plans to be lacking in any significant degree of privacy or amenity.

8.3 Other Issues

- 8.3.1 A screening for appropriate assessment was submitted by the applicant and this assessment concluded that having regard to the nature and scale of the proposed change of use and the location of the site relative to Natura 2000 sites in the vicinity that the proposed development would not have an adverse impact on any Natura 2000 site. In my opinion, having regard to the nature and scale of the 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 Conclusion and Recommendation

- 9.1 In conclusion, while there would appear to be a demand for additional office accommodation in the vicinity of the appeal site and related to the location within the digital hub area and while the importance of job creation and the development of the economic aspect of the digital hub is acknowledged, the basis for the assessment of the proposed change of use the subject of the current appeal has, in my opinion to be the impact that the change of use would have on the amenity of future occupants of the student accommodation. I acknowledge that there are no quantitative standards available for the level of ancillary accommodation to be provided for student accommodation developments however having regard to the location of the development, the planning history of the site and the level of ancillary accommodation relative to open space that would be provided were the change of use to be permitted and the level of ancillary accommodation in comparison to other permitted developments, I do not consider that a sufficient case has been made for the change of use sought.
- 9.2 Having regard to the above it is recommended that permission for the proposed change of use from common room to office use be refused based on the following reasons and considerations:

REASONS AND CONSIDERATIONS

1. Having regard to the location of the appeal site relative to educational campuses and significant areas of amenity value and to the balance between open space and indoor amenity space which would result from the proposed change of use, it is considered that the proposed development would result in a reduced standard of amenity for future occupants of the student accommodation. The proposed change of use would therefore be contrary to the provisions of the development plan relating to student accommodation, and would be contrary to the proper planning and sustainable development of the area.

Stephen Kay
Inspectorate
17th February, 2016