

An Bord Pleanála



Inspector's Report

PL29S.246166

DEVELOPMENT:

Change of use from storage area to residential use at attic level apartment with mezzanine gallery above and replace balconies to rear apartments at 43-44 St. James Street, Dublin 8.

PLANNING APPLICATION

Planning Authority: Dublin City Council
Planning Authority Reg. No: 4046/15
Applicant: Tanya Quinn and Christian Fraunfelder
Application Type: Permission
Planning Authority Decision: Grant

APPEAL

Appellant: Tanya Quinn and Christian Fraunfelder
Types of Appeal: 1st Party -v- Condition 3(a)
Observers: None
DATE OF SITE INSPECTION: 27/4/2016

INSPECTOR: Paul Caprani

1.0 INTRODUCTION

PL29S.246166 relates to a first party appeal against Condition 3(a) of Dublin City Council's notification to grant planning permission for a change of use from storage area to an attic level apartment with mezzanine gallery area together with the replacement of balconies to an existing apartment block at 43-44 St. James Street, Dublin 8. Dublin City Council's notification to grant planning permission incorporated Condition 3(a) which required that the proposed box structure/new gallery/living area at fifth floor level within the apartment block should be omitted. This omission is challenged in the grounds of the first party appeal. The site is located in James Street, Dublin 8.

2.0 SITE LOCATION AND DESCRIPTION.

The appeal site is located on the southern side of St. James Street near its junction with Eglin Street. The subject site is also located approximately 100 metres west of the junction of James Street, Bow Lane West and Stephen's Lane where the Luas Red Line traverses James Street. The site itself occupies Nos. 43-44 St. James Street and accommodates a four storey structure with a mansard roof above. On either side of the subject site three-storey buildings are located both of which incorporate lower parapet levels and roof profiles in the subject site. Retail space is located at ground floor level on the subject site and the adjoining sites to either side. The retail unit at ground floor level of the subject site is currently vacant. The three storeys above the retail unit currently accommodate apartment units. Attic space is located at fourth floor level within the mansard roof. Two apartment units are located on each floor at first, second and third floor levels. The rear apartment unit on each floor incorporates a balcony area on the rear (south) elevation.

3.0 PROPOSED DEVELOPMENT

Planning permission is sought for a change of use from existing storage area at fourth floor attic level to create a two-bedroomed apartment with a dormer window on the north elevation and a mezzanine gallery living area and associated roof terrace on a new fifth floor level. A new mezzanine/gallery area will increase the total height of the building approximately 2 metres. The proposed new apartment incorporates 2 bedrooms, one to the front and one to the rear of the unit as well as

living accommodation at fourth floor level. Stairs will lead to a new gallery/living area at fifth floor level which will occupy an area of approximately 18.6 square metres (26m GFA). It is proposed to incorporate a new roof terrace on the east side of the new apartment. It is also proposed to extend the height of the pitch the rear roof profile of the apartment block. At its maximum the ridge height will be increased by 1.8 metres above the existing parapet in order to create sufficient floor to ceiling height to accommodate a living accommodation at the rear of the apartment.

Finally it is proposed to replace and increase the size of the balcony area serving the rear apartments on the southern elevation of the apartment block. Existing balconies to be replaced and extended on Floors 1 to 3 and a new balcony is to be provided to serve the new apartment at fourth floor level.

4.0 PLANNING AUTHORITY'S DECISION

The planning application was lodged with Dublin City Council on 18th November, 2015 on behalf of the applicant by Solearth Architecture. A covering letter submitted with the application sets out the design rationale for the proposal and also includes a number of photomontages indicating the proposed alterations to the roof profile.

A report from the Engineering Department Drainage Division states that there is no objection to the proposed development subject to standard conditions.

A report from the Roads, Streets and Traffic Department notes that there is no parking provision associated with the existing development. Having regard to the city centre location and the availability of on-street car parking in the immediate vicinity of the development, there is no objection in this instance. Two standard conditions are requested to be attached.

The Planner's Report notes that the area on the fourth floor remains at 101.9 square metres with an additional gross floor area of 26 square metres accommodating the gallery area to be located at mezzanine/fifth floor level. The Planner's Report argues that the insertion of a "gallery box" at roof top level would be highly visible and inconsistent with the established parapet height. Furthermore the provision of the gallery box reduces the potential floor to ceiling height of the apartment at both

fourth and fifth floor level. In this regard it is recommended that the new gallery/living area should be omitted. Therefore the planning permission be granted for the proposed development incorporated condition No. 3 and it requires the development to be revised as follows:

3. (a) *The proposed box structure/new gallery/living area at fifth floor level shall be omitted.*
- (b) *There should be no physical barriers, such as shop counters, fridges or shelving placed in such a manner to obscure the shopfront display windows during the fit-out of the retail unit.*
- (c) *Internal modifications to reflect the above.*

The development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing with the Planning Authority, and such works shall be fully implemented prior to the occupation of the building.

Reason: *In the interest of visual and residential amenity and in order that the development meets the appropriate standards.*

5.0 PLANNING HISTORY

There are no planning history files attached. Details of the planning history are set out in the Planner's Report and are briefly referred to below.

Under Reg. Ref. No. 2735/01 relates to a decision to redevelop premises containing ground floor retail use with 7 new apartments on four existing floors overhead replacing existing storage/office use at the subject site.

Reg. Ref. No. 4269/08 relates to a decision to grant planning permission for development consisting of an attic conversion to form a two-storey 105 sq.m. Duplex apartment, one velux rooflight to the front and three velux rooflights to the rear together with access to a new fourth floor living space at the subject site.

No drawings are provided in respect of the above development on file. The Planner's Report also makes reference to other planning decisions on adjacent sites.

6.0 GROUNDS OF APPEAL

The grounds of appeal note that neither of the two grant of planning permissions in 2001 and 2008 (referred to above) were implemented. It is stated that the grounds of appeal specifically relate to Condition 3(a). The grounds of appeal did not agree with the conclusions set out in the Planner's Report that (a) the gallery box at fifth floor level would be highly visible and inconsistent with the established parapet height. And (b) that the gallery box reduces the potential floor to ceiling height of the apartment above fourth floor attic level and fifth floor post attic level to below the required 2.7 metres.

It is respectfully contended that there is no change to the existing parapet height nor is it required for the proposed development. It is submitted that the existing roof is rather ugly and inappropriate. It is stated that there is no unity of eaves line the modern buildings to the east or west of the subject site. The proposed boxed-shaped gallery at fifth floor level, apart from approving the amenity of the future occupants of the apartment, will provide a more satisfactory termination of the building and will provide a modest elegant and subtle addition to the skyline.

The proposed development complies with many of the design requirements set out in the Liberties Local Area Plan. These objectives are set out in the grounds of appeal. Furthermore it is noted that the inner city has a disproportionately high percentage of one-bedroomed apartments and this creates an unhealthy social mix. The proposed apartment in this instance is designed for family living with a total area of c.128 square metres. It exceeds the living area standards for two-bedroomed apartments. If the condition 3(a) is attached, it will significantly reduce the overall size of the apartment. The development as proposed will create a high amenity dual aspect duplex type unit which will attract a different type of tenant. The proposal will give rise to a greater density which is fully in accordance with the Liberties LAP. The proposed additional box at roof level blocks no important views from historic buildings but makes a gentle positive contribution to the skyline.

Further references are made to the Liberties LAP which it is contended support the proposed design rationale.

In relation to internal apartment heights, it is stated that the required 2.7 metres height referred to in the Planner's Report typically relates to

ground floor units where access to daylight can be an issue. Duplex apartment occupies fourth and fifth floors of the building and has excellent sunlight exposure and amenity views. It is noted that 2.4 metres is the minimum height for habitable rooms and is a general standard for apartments. The proposed development fully accords with this standard. Reference is also made to *Sustainable Urban Housing: Design Standards for New Apartment Guidelines for Planning Authorities*. Again, in terms of floor to ceiling height, the minimum floor to ceiling height sets out a requirement for 2.4 metres except in relation to ground floor apartments where it should be greater. It is stated that much of the habitable rooms provided as part of the fourth floor apartment exceed the minimum 2.4 metre height.

7.0 APPEAL RESPONSES

Dublin City Council have not submitted a response to the grounds of appeal.

8.0 DEVELOPMENT PLAN PROVISION

8.1 Dublin City Development Plan 2011-2017

The site is governed by the policies and provisions contained in the Dublin City Development Plan and the Liberties Local Area Plan. The subject site is zoned Z4 *'to provide and improve mixed services facilities'*. The proposed change of use from storage to residential use is a permissible use under this zoning objective. Chapter 17 sets out development standards. Section 5 relates to ceiling heights. It states that a minimum floor to ceiling height of 2.7 metres shall be required, measured from the finished floor level to ceiling level. The Development Plan also sets out other standards in relation to apartment units. It is not considered necessary to summarise these for the purposes of the appeal before the Board.

8.2 Liberties Local Area Plan

Overarching objective No. 3 seeks to provide for the wide diversity of choice of housing that can cater for families and older people by including options for mixed tenure and a range of housing types and unit sizes. In terms of design quality it is noted that the poor quality of many new apartment buildings is a key concern. The subject site is located in

Character Area 5. None of the key objectives for this area relate to the application before the Board. In terms of general housing objectives the LAP seeks to provide opportunities for new private housing built to Dublin City Council's apartment standards. The Plan also seeks to ensure that there is an appropriate mix of uses, housing forms and tenures and social mix in new developments of the Liberties.

8.3 Sustainable Urban Housing: Design Standards for New Apartments, December 2015.

These apartments require an apartment floor area of a minimum of 73 square metres for two bedroomed apartments. In terms of floor to ceiling heights it is stated the floor to ceiling heights affects the internal amenities of apartments in terms of sunlight/daylight storage space and ventilation. This is most significant at ground level where the potential for overshadowing is greatest. Ground level floor to ceiling height will also influence the future adaptability of individual apartments for potential alternative uses which will vary, depending on location. The minimum floor to ceiling height must accord with the Building Regulations requirement of 2.4 metres except in relation to ground floor apartments where it should be greater. It is a specific planning policy requirement that ground floor level apartment floor to ceiling height shall be a minimum of 2.7 metres. These are the absolute minimum requirements.

9.0 PLANNING ASSESSMENT

I have read the entire contents of the file, visited the site and have had particular regard to the grounds of appeal. I consider the proposed development to be acceptable in principle. I would concur with the Planning Authority's decision to grant planning permission for the proposed development. I therefore consider that the Board can restrict its deliberations to the issue raised in the grounds of appeal namely Condition No. 3(a) of the grant of planning permission.

It appears from the Planner's Report that the reasoning behind the incorporation of Condition 3(a) related to:

- (a) the visual impact of the proposed gallery box at fifth floor level, and
- (b) the proposed floor to ceiling height did not accord with the standards set out in Chapter 17 of the Dublin City Council Development Plan.

In relation to the first issue note that the subject site is located in the historic core of the city centre and there are many policies and objectives contained in the Liberties LAP which seek to protect and enhance the architecture and civic amenity associated with the Liberties area. Notwithstanding this point, it is apparent from the photographs attached that the site is occupied by a relatively recently built four-storey structure and there has been a significant amount of recent infill development along this section of James Street. The area immediately adjacent to the site incorporates a variety of building types, building heights and roof profile types. Contextual elevation submitted with the planning application indicates the array of building heights and setbacks at roof level. This in my view would permit a more flexible approach in terms of permitted alterations and extensions to the roof profile. The existing mansard type roof on the subject building is in my opinion incongruous in the context of the roof profiles in the vicinity.

Photograph No. 1 attached to this report indicates that the predominant roof profile in the vicinity of the subject site comprises of hipped roof profile and flat roofed profiles. A mansard type roof profile on the subject site is unusual in this surrounding context. Having regard to the variety in the roof design, I do not consider that the incorporation of a gallery box type structure on top of the existing mansard roof to be unacceptable in design terms. The Board should also note that Dublin City Council have permitted more flexible and innovative approaches to buildings including historic buildings in the area. In this regard I refer the Board to the photographs of the glass steeple on the church located directly south of the site in question (Photo No. 4). In conclusion therefore I do not consider that the incorporation of a glass gallery on the roof in question would be acceptable in visual or design terms having regard to the variety of roof profiles in the immediate vicinity of the site.

With regard to the issue of floor to ceiling heights, I acknowledge that Dublin City Council's Development Plan requires a standard of 2.7 metres in terms of floor to ceiling heights for apartment buildings. The Board however should have regard to the recent DoE Guidelines which permit floor to ceiling heights of 2.4 metres in apartment rooms above ground floor. The subject gallery is located in the fifth floor and incorporates extensive glazing in terms of elevational treatment. This in my view would create a light filled, airy and spacious feel to the proposed extension at fifth floor level and as such would counteract any perceived deficiencies in terms of floor to ceiling height. While Departmental Guidelines permit a floor to ceiling height of 2.4 metres as

an absolute minimum standard, having regard to the location of the gallery on top of the building and also the nature of the materials used on the elevation I consider the proposed extension represents good example where the minimum standards could be permitted without adversely affecting the amenity of the occupants.

Finally I would argue that the incorporation of additional living space at second floor level in the proposed apartment would achieve many of the more general objectives set out in the Dublin City Development Plan and Liberties Local Area Plan in relation to providing larger, more spacious and innovative designs in respect of apartment buildings. The proposal would create a greater variety in terms of apartment size and layout which in turn would cater for greater social mix and vibrancy in terms of inner city residential development. I consider the Board should where possible seek to facilitate such variety in design particularly in relation to inner city apartment development.

Appropriate Assessment

Having regard to the nature and scale of the proposed development and/or nature of the receiving environment and/or 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.

Arising from my assessment above therefore I consider the Board should omit Condition 3(a) in determining the application and appeal before it.

**Paul Caprani,
Senior Planning Inspector.**

9th May, 2016.

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