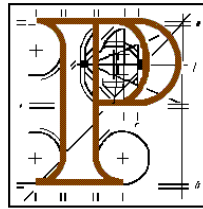


An Bord Pleanála



Inspector's Report

Development:

Change of use of part offices to residential use for 2 no. apartments and all associated works (protected structure) at Owenstown House, Fosters Avenue, Blackrock, Co. Dublin.

Planning Application

Planning Authority:	Dún Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.:	D15A/0251
Applicant:	Ellen Cranley
Type of Application:	Permission
Planning Authority Decision:	Grant Permission

Planning Appeal

Type of Appeal:	Third Party
Appellant:	Owen Lodge Management Company Ltd.
Observers:	None
Date of Site Inspection:	1 st June 2016

Senior Inspector:	Fiona Tynan
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Table of Contents

1.0	SITE DESCRIPTION AND LOCATION.....	3
2.0	PROPOSAL.....	3
3.0	PLANNING CONTEXT.....	3
3.1	Departmental Reports:.....	3
3.2	Decision of Planning Authority.....	5
3.3	Planning History.....	6
3.4	Planning Policy.....	6
4.0	GROUNDS OF THIRD PARTY APPEAL	6
5.0	PLANNING AUTHORITY'S SUBMISSION	7
6.0	ASSESSMENT.....	7
7.0	CONCLUSION	8
8.0	RECOMMENDATION.....	8

1.0 SITE DESCRIPTION AND LOCATION

- 1.1 The appeal site is located off Foster's Avenue in Blackrock. The subject site is accessed off a public road from Fosters' Avenue which serves University College Dublin. A laneway of one car width provides access to Owenstown House. The laneway is abutted by a small number of parking spaces. Owenstown House is a two storey Georgian building which was formerly in residential use in its entirety. It presently appears to be in office use. Abutting the House is a three storey apartment development. These two developments share the car park located to the front of the House. There is no public open space associated with the development.
- 1.2 The units which are the subject of this application are located on the lower ground floor and are accessed via a set of steps located to the side of Owenstown House. These units are presently used as offices. The units comprise of 2 projecting bay glass doors to the main elevation.
- 1.3 Attached to this report are photographs taken on the day of the site visit.

2.0 PROPOSAL

- 2.1 The proposal is to convert two office units located on the lower ground floor of Owenstown House to residential use. Apartment unit no. 1 has a stated floor area of 70.8m² and will comprise of 1 bedroom and living accommodation with 11m² of private open space. Apartment unit no. 2 is to comprise of 2 bedrooms and has a stated floor area of 93m² with a private open space of 12m². The drawings submitted indicate minimal construction works are proposed to allow the conversion to occur. However, the existing glazed bay window/door construction is to be removed and replaced with a glazed door which is to be flush with the existing wall.
- 2.2 Submitted with the application to the Planning Authority are Conservation Notes which outline that Owenstown House dates from early 1800's. The House has three floors, each of which are in separate ownership. Access to the lower ground floor is directly from the gardens. It is outlined that the permission for the adjacent apartment development dates from 1995. It is stated that internally no ornate plasterwork, cornices or fireplaces or other historical architectural elements are visible.

3.0 PLANNING CONTEXT

3.1 Departmental Reports:

- 3.1.1 Conservation Officer: Having regard to the House which has been significantly altered and is devoid of architectural features, the proposed alterations are not considered to materially affect the character of the Protected Structure and therefore, the Officer has no objections to the proposal.
- 3.1.2 An Taisce: Their submission states that they are satisfied for this application to be assessed in accordance with the County Development

Plan, having particular regard to the provisions on Protected Structures.

- 3.1.3 Drainage Planning: Recommend a request for further information as no details of surface water drainage proposals have been submitted.
- 3.1.4 Irish Water: Request further information as the details provided are incorrect as there is no foul sewer on Fosters Avenue at the connection point indicated on the drawings submitted.
- 3.1.5 Transportation Planning: State no objection to the proposal but recommend conditions be inserted regarding the allocation of 2 no. car parking spaces per unit be provided and to ensure that they are clearly marked and delineated. In addition, a condition pertaining to the prevention of mud, dirt, debris or building material being carried onto or placed on the public road or adjoining property as a result of the site construction works.
- 3.1.6 Planner's Report: The Planner's Report outlines a number of submissions received objecting to the proposal, principally from residents of the apartment development, Owenstown Lodge, who argue that the proposal will give rise to loss of privacy and overlooking. Issues with drainage is also cited. The report refers to the input of the departmental reports and notes that further information is sought in respect of drainage. In the assessment of the proposal, the Planning Officer refers to a number of objections who cite that one of the units has already been converted to residential use. In this instance, it is recommended that further information is sought to clarify this issue. Having regard to the issue of overlooking cited by objectors to the proposal, the Planning Officer notes that no new opes are proposed as part of the development and that the path, steps and terrace area are already existing, therefore it is considered by the Planning Officer that the proposed development will not significantly later the overlooking of the existing residential properties. Further information is thereafter sought in respect of three items, briefly summarised as follows:
1. Clarify the existing use of the site, if a change of use to residential has already occurred, the site notices and public notice need to reflect this.
 2. Submit details of surface water drainage proposals.
 3. Foul drainage details provided are incorrect.
- 3.1.7 The request for further information was issued on 5th June 2015.
- 3.1.8 A response was made by Gilligan Architects on 17th November 2015. It set out the following:
1. The existing uses on site in the two units are office use.
 2. No new external construction proposed as part of this planning application, which would require new surface water drainage. Therefore, all existing surface water drainage will remain as it currently exists.
 3. No new construction proposed as part of this planning application, which would require new foul drainage. In relation to

drainage issues, it is cited that Owenstown Lodge obtained in 1995 and that inherent water ingress problems associated with their construction have been remedied. The Applicant confirms that there has been no flooding due to problems with the existing foul drainage at Owenstown House over.

3.1.9 Following the receipt of the further information the following reports were issued:

Drainage Planning: Seeks Clarification as details of existing surface water drainage within the subject site have not been submitted.

Planner's Report: Recommends that clarification of further information is sought as the response to items 2 and 3 are considered unsatisfactory.

3.1.10 Following an extension of time, the Applicant's Agent states that the floor level of the subject property varies from 850-950mm below ground level which means that it is not possible to discharge by gravity feed to either Owenstown Park or to Foster's Avenue. It is not possible to change the internal plumbing due to ownership and conservation issues. The external car parking surfaces drain to permeable landscaping within the site boundary. Some car parking spaces incorporate permeable grass lock surfacing. It is also stated that the foul loading will be reduced as a result of this proposal. The Applicant requests that the requirement for provision of separate disposal of foul and surface water to public sewers is reconsidered.

3.1.11 Drainage Planning: The Clarification of Further Information Report states that the explanations given by the applicant, in the submission and also in the pre-submission meeting with the Drainage Planning Section, are considered acceptable, and therefore we do not have any further objection.

3.1.12 Planner's Report: The Report in response to the Clarification of Further Information notes the Drainage Planning Report. Furthermore, it is stated that since the submission of this application new guidelines relating to the design standards to apartments have been produced, Sustainable Urban Housing, Design Standards for New Apartments Guidelines for Planning Authorities, 2015 refer. These standards are intended to apply to new apartment developments with an objective to achieve said standards in refurbishment schemes such as this where possible. It is considered that the proposed development meets the objectives of the Guidelines.

3.2 Decision of Planning Authority

On the 16th of February 2016, Dún Laoghaire-Rathdown County Council granted permission for the proposed change of use to existing part office use to residential use for 2 no. apartments on the lower ground floor level of the existing building. Five conditions of standard content are attached.

3.3 Planning History

3.3.1 There is no recent planning history pertaining to the site.

3.4 Planning Policy

3.4.1 The operative Development Plan is the Dún Laoghaire-Rathdown County Development Plan 2016-2022. This was adopted in March 2016 and therefore was adopted after the Planning Authority's consideration of the application. Nonetheless, the zoning of the site remains unchanged as Objective "A"-*"to protect and or improve residential amenity"*. The structure within which the development is located is identified as Owenstown House and is identified as a Protected Structure in the Plan. To the west of the subject site is an objective to provide accommodation for the Travelling Community.

4.0 GROUNDS OF THIRD PARTY APPEAL

4.1 A third party appeal has been lodged by Kieran O'Malley and Co. Ltd on behalf of Owenstown Lodge Management Company Ltd against the decision of the Planning Authority's decision to grant permission. Their submission seeks to highlight the following:

- Owenstown Lodge Management Company are the owners and occupiers of a number of apartments at Owenstown Lodge.
- Owenstown House is a three storey apartment block adjoining Owenstown House.
- Object to Section 16.3.3 of the Development Plan states that "apartment developments should be of high quality design and site layout having due regard to the character and amenities of the surroundings.
- The private open space is considered unsuitable as the external patios are over 1m below the adjoining ground level so these areas would be overlooked from the communal green area at the front of Owenstown Lodge and would not be private in any real or meaningful sense. There would also be overlooking between the two units.
- The layout ignores the relationship between the patio areas and Owenstown Lodge. Living room windows in the apartments at Owenstown Lodge directly overlook the external patio areas completely undermining any privacy there.
- The conversion of the office units to residential units would impact significantly upon the existing residential use of Owenstown Lodge as the stairs and external areas are mostly used to gain access to offices where Monday to Friday working hours considerably reduce the adverse impact upon amenity at residential units in Owenstown Lodge.
- An objective evaluation of the proposal could not reasonably regard the private open space as acceptable in planning terms because it gives rise to serious injurious overlooking between residential neighbours.
- In the event that the board consider granting permission, the Board are invited to insert a condition that the use of the external areas is restricted to access only and that these areas are not occupied as patios or terraces or as private open space for any similar purpose in the interest of protecting existing residential amenity. Reference is made to Section 16.3.3 (ix) at page 171 of the County Plan:

- *“In exceptional cases in “urban centres”, for reasons of maintenance of streetscape character, or the preservation of residential amenity of adjoining property, the Planning Authority may accept the provision communal open space in lieu of all private open space”.*

While this is may not be an urban centre, the rational for permitting apartments without any private open space is justified in the interest of safeguarding residential amenity, which is precisely the case at the appeal site.

5.0 PLANNING AUTHORITY’S SUBMISSION

- 5.1 The Planning Authority made a submission to state that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.0 ASSESSMENT

- 6.1 I have read all documentation on file. I have reviewed all plans and particulars and have read the appellants’ grounds of appeal. I have read the relevant provisions of the statutory development plan for the area and I have carried out a site inspection. In my opinion, the main issues to be addressed in this appeal are as indicated hereunder.

- Principle of Development
- Layout of Proposal
- Impact on Adjacent Uses
- Protected Structure Status

- 6.2 The appeal site is located in an area zoned for residential purposes. The current site has office and residential use on site. Therefore, the proposal to convert from office use to residential use accords with the zoning objective for the site and is acceptable in principle.

- 6.3 The Agent on behalf of the Applicant has indicated that the use of the lower ground floor was in residential use and was previously the subject of an application by the Applicant to convert to office use. The proposal to convert to residential use involves minimal change to the existing structure. The proposal to provide private open space involves the removal of the existing bay windows/front door to the units and incorporating the external access route into private open space. The private open space areas accords with the Development Plan standards in terms of quantum at 11 and 12sq.m. for each apartment. However, I concur with the observations of the Appellant in terms of the quality of the said open space. The private open space is to be located in the existing pathway serving the units which is located at 1m below an existing low wall and abuts a sloped area of public open space. This area is largely overgrown, possibly in an effort to provide some form of privacy to the adjacent Owenstown Lodge, an apartment development. The private open space for the proposed units would be

significantly overlooked by the apartments of Owenstown Lodge and I note that no form of boundary is proposed between the units themselves. It would appear that there is no other alternative available to the Applicant in terms of providing private open space on another elevation of the House. Having regard to the apartment units which will derive their only light from the glazed door and one window, it is considered that the private open space to be provided for the units should be of a higher quality. I consider that to accept the private open space as proposed would be contrary to the residential amenity of future residents of the said units and would give rise to an undesirable precedent.

- 6.4 During the course of the application with the Council, further information and clarification of further information was sought in respect of drainage proposals. In response to such queries the Applicant clarified that there is no new external construction proposed on site which would require new surface water drainage, that it would not be possible to discharge by gravity feed to either Owenstown Park or to Foster's Avenue however, it would not be possible to change the internal plumbing due to ownership and conservation issues in relation to Owenstown House. The external car parking surfaces on site drain to permeable landscaping within the site boundary. Some car parking spaces are stated to incorporate permeable grass lock surfacing. The Applicant responded that surface water disposal which has been very effective during recent record breaking rainfall will not be changed in any way as a result of the application. It is also stated that the foul loading will be reduced as part of this application wherein the office currently accommodates 17 persons. The Drainage Planning Section of the Planning Authority were satisfied with this response and I find no reason to differ from this conclusion.

7.0 CONCLUSION

- 7.1 In conclusion, it is considered that the proposal before the Board to convert the two units on the lower ground floor of Owenstown House from office use to residential use accords with the zoning objective for the area. However, it is considered that the private open space to be allocated to the two apartments, which is located in a passageway below ground level and would be seriously overlooked by the adjacent residential development of Owenstown Lodge, would be inferior in quality and would set an undesirable precedent for similar developments in the area.

8.0 RECOMMENDATION

- 8.1 I have read the submissions on file, visited the site and paid due regard to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022. I recommend that planning permission be **Refused** for the development based on the reasons and considerations hereunder

REASONS AND CONSIDERATIONS

Notwithstanding the proposal to convert the lower ground floor units of Owenstown House from office use to residential use accords with the zoning objective for the area, it is considered that the proposed private open space to be allocated to the two apartments fails to provide a satisfactory level of amenity having regard to its location at 1m below ground level, its existing function as a passageway, the degree to which it would be overlooked by the adjacent residential development of Owenstown Lodge and its overshadowing by existing planting in place. The proposed development would result in a substandard form of development and would, therefore, seriously injure the amenity of property in the vicinity and be contrary to the proper planning and sustainable development of the area.

Fiona Tynan
Senior Planning Inspector
07/06/16