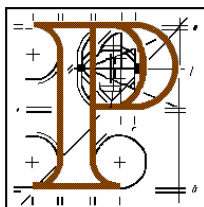


An Bord Pleanála



Inspector's Report

Change of Use and Internal Alterations at first floor Level to provide 2No. apartments, associated works externally to provide for first floor terraces, carparking and all associated site works at Scope House, Whitehall Road West, Dublin 12

Planning Application

Planning Authority:	South Dublin County Council
Planning Authority Reg.	SD16A/0062
Applicant:	May Fagan
Type of Application:	Permission
Planning Authority Decision:	Refuse Permission

Planning Appeal

Appellant(s):	May Fagan
Type of Appeal:	First party V Decision to Refuse
Observers:	None

Date of Site Inspection: 11th of August 2016

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The site is located at the junction of Whitehall Road West and Quarry Drive within a block known as Scope House. The site is located on the first floor above a takeaway, a vegetable shop and a photography shop.

2.0 PROPOSED DEVELOPMENT

- 2.1 Change of Use and Internal Alterations at first floor Level to provide 2No. apartments, associated works externally to provide for first floor terraces, carparking and all associated site works at Scope House, Whitehall Road West, Dublin 12.

- 2.2 Each unit will be accessed form the same entrance on the southwest elevation.

Apartment 1: 45sq.m. plus a 6.7sq.m. terrace

Apartment 2: 67.7sq.m. plus 13.6 sq.m. terrace

3.0 SUBMISSIONS RECIEVED

There were no third party submissions received.

4.0 TECHNICAL REPORTS

4.1 *Planning Report*

The main points in the report are as follows:

- The change of use from office to residential is acceptable in principle under the zoning objective
- There are a history of planning refusals for similar developments on the subject site. The applicant was refused under SD13A/0158 for the same development and nothing has changed since that refusal.
- The proposal is acceptable in terms of size and amenities
- Under case SD05A/1007/ ABP Ref. PI06S.216794 the pizza takeaway will not operate between 12midnight a 8am. The proposed development would be affected by the takeaway business underneath, and it would be contrary to the zoning objective.
- In terms of policy SN27 Private Amenity Space, there is adequate amenity proposed with the balconies
- Overlooking acceptable

- Elevations acceptable
- No objections form roads Section
- The floor area of 113.2sq.m. is relevant for development contribution calculations.

4.2 EHO

No objections subject to conditions

4.3 Roads Department

No objections subject to conditions

5.0 PLANNING AUTHORITY'S DECISION

South Dublin Co. Co. refused the proposed development for one reason:

The proposed development is located over a fast food restaurant which was granted planning permission by the Board under reference SD05A/1007, PL06S.216794, which Condition no. 2 stating the pizza takeaway will not operate between midnight and 8am. In the context of the site

6.0 APPEAL GROUNDS

6.1 From the assessment in the Planner's Report it is clear the only concern is the hours of the takeaway, all of the other issues appear to be satisfied by the proposed development. The living accommodation meets with acceptable standards as a conversion project. The appeal focuses on the amenity issues raised in the reason for refusal.

6.2 The principle of residential over commercial uses is well established in planning practice. Provision of dwellings at upper floors above commercial activity at ground floor promotes activity at street level. There is also continuous passive surveillance adding to a sense of security. There are existing residential units within 20-30metres of the takeaway with no adverse amenity impacts to date.

An example of similar a development is the Village at Rathborne, Ashtown, Dublin 11 where one of the anchor restaurants uses is a Douglas and kadi unit, and there are residential units overhead with no adverse impacts.

6.3 The existing takeaway is small scale, and the reason for refusal is based on an entirely incorrect premises because SD05A/1007 was never built, the existing takeaway is much smaller as demonstrated by diagrams submitted. The building footprint of SD05A/1007, is a vegetable store. The planning authority's reason for refusal; based on SD05A/1007, should be dismissed by the Board. The permission has not expired and it was not developed.

6.4 All the residential units in the area are primate to sources of commercial noises, and any future occupant would be aware of the context they have to live in. The

proposed units are well sized, well located and offer a good standard of living. Modern construction specification can provide additional noise insulation.

- 6.5 The issue of amenity impact is not a valid issue given the primarily delivery based nature of the existing ground floor takeaway, therefore residential use should be acceptable. Housing is needed in the area, and although the proposal is small scale it does provide two much needed housing units in the area.

7.0 RESPONSES

- 7.1 The planning authority confirms its decision.

8.0 PLANNING HISTORY

8.1 SD16A/0062

The planning authority refused a similar development at this location due to its location over a fast food restaurant, and the hours of opening relating to the takeaway could impact on the residential amenities of the future occupants.

8.2 SD13A/0158

The planning authority refused a similar development, change of use from office accommodation to two apartments on the first floor, at this location due to its location over a fast food restaurant, and the hours of opening relating to the takeaway could impact on the residential amenities of the future occupants.

9.0 DEVELOPMENT PLAN

South Dublin County Development Plan 2010-2016

The subject site is zoned ***A to protect and or improve Residential Amenity.***

Residential use is permitted in principle under this zoning.

Sustainable Urban Housing: Design Standards for New Apartments.

10.0 ASSESSMENT

- 10.1 The subject site is known locally as Scope House and it is located on Whitehall Road West, at a junction with Quarry Drive. The general area is suburban housing punctuated by open space areas. Scope House is a small commercial precinct serving the area. It includes on the ground floor, a takeaway, a vegetable shop and the photography shop. There are 5No. offices on the first floor that have been vacant for sometime, and the applicant has tried in vain on

a number of occasions to obtain planning permission for a conversion of the office units to 2No. apartments. The reason for refusal references a planning registration number: SD05A/1007 (PL06S.216794) which was for a change of use from an existing hairdressers to a Pizza takeaway at Scope House. The permission for the change of use was granted and one of the conditions is relevant to the current proposal as it is cited in the reason for refusal, namely Condition No. 2 of the permission:

The pizza takeaway shall not operate between twelve midnight and 0800hours.

- 10.2 Planning reference SD05A/1007 (PL06S.216794) was not enacted upon, and the permission expired on 17th of July 2011. The current use of the subject site is a vegetable shop and the photography shop. Therefore the reason for refusal is based on incorrect information. Incredibly the planning authority has used a similar reason for refusal on a previous planning application, SD13A/0158 for a similar development on the subject site. The existing takeaway at Scope House is an Indian takeaway which predates SD05A/1007 (PL06S.216794) , as there was a Chinese takeaway within the same existing unit in 2005-2006 during the assessment of the application. I note from the Planning Report on file, there is no Enforcement History associated with Scope House, therefore the existing takeaway has existed within a residential area for over ten years with no apparent record of complaints. Therefore I do not consider the existing takeaway to be a significant issue regarding the proposed development. There did not appear to be any nightclubs or public houses in the general vicinity, the takeaway/ restaurant is providing a service to the wide residential hinterland not a late night takeaway to revellers or people socialising late at night.
- 10.3 The area is zoned A which seeks to *protect or improve residential amenity*, in the South Dublin County Development Plan 2010-2016. The proposal seeks to reconfigure offices within an existing building to residential use by providing two apartments, 1No. one bedroom and a two bedroom apartment. Both apartment have adequate storage space. The proposal does fall slightly short in floor area, in terms of Apartment No. 2 fails to meet with the minimum floor area standards outlined in the *Sustainable Urban Housing: Design Standards for new Apartments, Guidelines for Planning Authorities 2011*. Overall the proposal provides satisfactory residential accommodation, with balconies, and there will be sufficient privacy associated with the proposed. The site is located alongside a large green area accessed form Quarry Drive. There are residential properties to the front and rear of the subject site. I consider the principle of the change of use to be acceptable.
- 10.4 There is parking to the rear and front of the Scope House. The applicant has proposed three spaces in the rear yard area to serve the proposed change of use, and this is acceptable. The yard area is also used for bin storage.
- 10.5 It is the policy of the development plan under *policy SN27* to provide adequate and usable private amenity space in the form of a patio or balcony. I note the two bedroom apartment is to the front of Scope House and will include a balcony along the front elevation. The one bedroom apartment will have an

apartment off the roof area of the single storey unit along the northern elevation. This will not impact on the privacy associated with 1 Quarry Drive to the west of the subject site.

13.0 RECOMMENDATION

I recommend the planning authority's decision to refuse planning permission for the proposed development be overturned by the Board.

REASONS AND CONSIDERATIONS

Having regard to the South Dublin County Development Plan 2010-2016 according to which the subject site subject to the zoning objective A "to protect and/ or improve residential amenity", the surrounding pattern of residential development, it is considered that, subject to compliance with the conditions set out below, the proposed development would satisfactorily integrate into the established pattern and character of development in the area, would not seriously injure the residential amenities of the future occupants and 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. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. The balconies shall be fully constructed, planted and completed prior the occupation of the development.

Reason: In in the interest of residential amenity.

4. The access and parking areas shall comply with the requirements of the planning authority for such works and services.

Reason: In the interests of traffic safety

5. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

6. 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 the 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.

Caryn Coogan

Planning Inspector

12/08/2016