



An
Bord
Pleanála

Inspector's Report PL06D.246620

Development	Change of use from first floor residential to guest house facilities, extension over existing restaurant to create 6 guest rooms, new lift and stairs at Gleeson's of Booterstown, 44 Booterstown Avenue, Booterstown, Co. Dublin
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D16A/0150
Applicant(s)	Spirit Level Ltd.
Type of Appeal	Third party against grant
Planning Authority Decision	Planning permission s.t. conditions
Appellant(s)	Seamus & Helen McGardle
Observer(s)	None
Date of Site Inspection	13 th September 2016
Inspector	Mary Kennelly

1.0 **Site Location and Description**

- 1.1. The appeal relates to an established pub/restaurant on Booterstown Avenue, which connects the N11 with the Rock Road at Booterstown Dart Station. The site is situated on the eastern side of the avenue, to the north of Cross Avenue. It is on the corner of Booterstown Avenue and Willow Place, which is a residential cul-de-sac and is opposite the Church of the Assumption. Willow Park Primary School is located to the immediate rear (east) of the site, (accessed from Rock Road), and the entrance to St. Andrew's College (Secondary School) is located to the west of the church, (accessed from Booterstown Avenue via a number of smaller streets). There are Victorian terraced houses immediately to the north and south on Booterstown Avenue and immediately to the east on Willow Place.
- 1.2. The site comprises a 2-storey building, which occupies the corner site with frontage to both Booterstown Ave and Willow Place, with a private car park to the north and east of the building. It is in use as a restaurant/pub with a shop/deli on the ground floor and vacant residential accommodation overhead. Access to the site is from Booterstown Ave. The building has been extended incrementally over the years with flat roof single-storey extensions. It also appears to have been extended into the westernmost terraced property to the east on Willow Place. There is an outdoor seating area on the corner with Willow Place, with screens which extend eastwards along the back edge of the footpath.
- 1.3. I refer the Board to the appendices to this report which include maps and photos of the site.

2.0 **Proposed Development**

- 2.1. Main elements of proposal:-
 - Change use of first floor accommodation from residential to guest house facilities, providing 10 no. guest bedrooms with associated ensuites.

- Construct first floor extension over single-storey sections of the ground floor restaurant providing a further 6 no. guest bedrooms and associated ensuites.
- Provide new lift and stairs and a reception area to the rear of the public house.
- Provide internal courtyards at first floor level.
- Construct 2-storey extension within rear service yard to provide circulation space. Stairs, lift and an external staircase. The lift tower would be 8.7m in height.
- It is proposed to increase the floor area from the existing 1,106sq.m by adding an additional 265sq.m.

3.0 Planning Authority Decision

3.1. Decision

The P.A. decided to grant planning permission on 29th April 2016 subject to eleven conditions, the majority of which were standard type conditions requiring adherence to plans and particulars, apart from the following:-

- Condition 2 required revised drawing of the car park to incorporate a disabled parking bay, motorcycle space, 3 no. electric car charging bays and cycle parking for 4 no. bicycles.
- Condition 3 required the revised plans showing the omission of the terrace to proposed bedroom 16 and the provision of a privacy screen along the eastern perimeter of the building at FF level to prevent overlooking from the proposed courtyard of adjoining properties to the east.

3.2. Planning Authority Reports

The Area Planner considered that the proposed development for use as a guest house combined with the existing restaurant/pub and shop is acceptable in principle, given the site's established use and proximity to Dart and QBC, within this

Residential A zoning. In terms of residential amenity, it was noted that the southern elevation did not include any changes to fenestration and that the proposed windows on the northern elevation would be angled towards the street/carpark, and as such there would be no likelihood of overlooking.

Concern was raised however regarding the proposed FF terrace adjacent to Bedroom 16 in terms of potential overlooking of No. 4 Willow Place. It was further considered that privacy screens would be required along the eastern perimeter at FF level in order to screen the dwellings to the east from the internal courtyards. It was noted that the GF extension at the rear (lift tower/boiler house/external staircase) would be approx. 3m from adjoining properties to the east, but it was not anticipated that there would be any loss of amenity.

The contemporary design and treatment of the proposed extensions was considered to be acceptable and would not have an adverse impact on the streetscape amenities or on the cACA. It was considered that the contemporary design and full height feature window with an overall height of 8.645m would have a neutral impact provided that the quality of the finishes and treatment would be of an appropriate standard. Access and parking was considered to be satisfactory given the provision of 36 spaces on site and the close proximity to the QBC and to the Dart.

Other Technical Reports

Conservation Officer (6/4/16) - It was noted that the site is within a candidate ACA and was subject to policy AR17. It was further noted that there is no single predominant building type within the cACA and it was considered that the proposal would have a neutral impact on the character of the cACA.

Drainage Dept. (8/4/16) – no objection.

Transport Section (21/4/16) sought provision within the car park for disabled parking, motorcycle and bicycle parking and for electric car recharge points.

3.3. Third Party Observations

There were 8 no. observations from third parties. The main points raised are similar to those contained in the grounds of appeal and related to the following matters:-

- Contrary to zoning – intensification of use is contrary to residential zoning and character of area, where the zoning objective is to protect and improve residential amenity.
- Design and appearance - Inappropriate design given quality of surrounding architecture, including many protected structures and location within ACA. Proposed fenestration inappropriate to area, particularly the proposed large glass box style window. Development projects too far onto street. Height of extension is excessive in context of streetscape.
- Traffic and parking – will contribute to traffic and parking congestion which is already problematic due to presence of several schools nearby. Inadequate parking provision given intensification of use.
- Overlooking and loss of privacy – fenestration and terraces will cause increased overlooking.
- Noise and disturbance – late night noise and disturbance associated with the proposed use and it could be turned into a hotel with adverse impact on amenity.
- Infrastructural services – proposed development will put strain on existing services such as water and sewerage services.

3.5 Planning History

- 3.4. **D11A/0340** – planning permission was granted for retention of a change of use of 75sq.m gross from public house and off-licence to shop use including the sale of intoxicating liquor for consumption off the premises, including all incidental and ancillary works and minor external amendments as built to the western elevation.

- 3.5. **06DRL2489** – Section 5 Declaration, Board determined that the extension of the off licence into the public bar and change of use of public bar to off-licence and deli-grocery use is not exempted development.
- 3.6. **D08A/0449** – permission granted for change of use of existing residential area allied to public house to commercial office area at first floor of existing licensed premises, new escape stairs to the rear and renovation within – not implemented.
- 3.7. **D08A/0448** – permission granted to extend existing off-licence area and to provide new access door onto paved area at the intersection of Booterstown Ave and Willow Place, and for changes to elevations of public house, minor demolitions and alterations within the bar area.

4.0 **Policy Context**

5.1 **Dun Laoghaire Rathdown County Development Plan 2016-2022**

The site is zoned Residential A, the Zoning Objective for which is to Protect and/or Improve Residential Amenity. Section 2.1 addresses Residential Development and includes Policy **RES4** which seeks to improve and conserve existing housing stock and to densify existing built-up areas. The policy seeks to retain and improve residential amenities in established communities and includes the promotion of ‘Living over the Shop’ schemes. Section 6.1 addresses archaeological and architectural heritage matters. Policies **AR1** and **AR5** relate to works to and within the grounds of Protected Structures and Policies **AR12**, **AR16** and **AR17** relate to Architectural Conservation Areas and candidate ACAs. Section 8.2.11.3 sets out the development management principles for ACAs and Table 8.2.4 contains the relevant car parking standards for non-residential development. Extracts from the Development Plan 2016-2022 are attached.

6.0 **Grounds of Appeal**

- 6.1 The third party appeal (from No. 40 Booterstown Ave) is against the decision to grant permission. The grounds of appeal can be summarised as follows:

1. ***Incompatible with zoning*** – The proposed development contravenes the Residential A zoning objective which is to protect or improve the residential amenities of the area. The proposal will result in intensification of the use of the site with implications for noise and nuisance, traffic and road infrastructure incremental change of use of the site to a hotel.
2. ***Increased noise and disturbance*** – concern is raised regarding the creation of a guest house in a well-known ‘rugby pub’ which could become a venue for touring parties. The option to provide interconnecting rooms indicates possible party space for those ‘on tour’. The proposed balcony to an internal area could be used by late night revellers.
3. ***Overlooking and loss of privacy*** – the height of the second floor exceeds that of the adjacent dwelling and the “glass cube” extends a meter beyond this. There would be direct overlooking from this “cube” into the windows of No. 40. There would also be overlooking from the “drinking deck” at the rear into the appellants’ front and rear gardens, and from this “deck” and the “cube” of the gardens of Nos. 36, 38, 59 and 61. The proposed development would also adversely affect property values.
4. ***Architectural heritage*** – The design of the proposal detracts from the protected structures in the vicinity. In particular, the “glass cube” obscures views of the appellant’s bay window, which is an element of architectural interest. The church and convent, and many other buildings, are protected structures and the proposal does not include any information regarding how the development would affect these. The proposed development, by reason of the “glass cube” and the height of the extension would be out of character with the streetscape and with the candidate ACA. The projecting “cube” would detract from the visual amenities of the area.
5. ***Traffic and parking congestion*** – Booterstown Ave is already under severe pressure from traffic as it serves 4 schools and a crèche and is used extensively

by commuters en route to/from Merrion Gates. Inadequate parking on site will be exacerbated by the intensification of the use and will displace cars onto the adjoining streets.

6. **Health and safety** – access to the guest house is via a car park and the exit from the proposed reception would be substandard due to the proximity of parking bays to the steps.
7. **Increased pressure on existing services** – Foul drainage is a major problem on the street with several residents having to install non-return valves and the appellants have had to employ drain cleaners to power wash their sewerage pipes. The proposal to add 16 bedrooms with en suites would exacerbate the problem. There is also a problem with flooding due to the presence of an underground stream and a fragile water table, which is likely to be exacerbated by the installation of a lift shaft and extra rooms.
8. **Precedent** – The Board refused permission for a development at 28 Booterstown Avenue on grounds that would be relevant to the current application. It was stated that the development, by reason of its height, scale and design would constitute overdevelopment and a visually overbearing feature when viewed from adjacent private amenity areas and would have an adverse impact on residential amenity by reason of overlooking from the balcony. It is submitted that the development was of a lesser scale than that proposed at Gleeson's and should, therefore, be refused. Reference was also made to the rejection of a proposal on Cross Avenue, but no details provided of address.
9. **Discrepancies and errors in the application** – several errors in the drawings regarding height of various elements such as “cube”, lift shaft, etc. The description of development is also criticised as being misleading as no mention of the word “construction”. The site notice, which was placed on the shop window, was also obscured by the notices for local events/services etc.

6.2 Planning Authority Response

The P.A. responded to the grounds of appeal on 15th June 2016 by stating that it was satisfied that the proposal would not have any significant adverse impact on the visual or residential amenities of the area. Attention was drawn to the following matters:

- The detailed assessment in the Planner's Report.
- The 'guest house' nature of the proposed facilities.
- The existing public house and restaurant facilities operating from the site with an existing car park.
- The conditions stipulated which require the omission of the first floor balcony and require privacy screening to safeguard amenities.

6.3 First Party Response

John Spain Associates, on behalf of the first party, responded on 20th June 2016.

The submission is mainly in the form of a rebuttal of the grounds of appeal. However, the following points are of note:

- The subject site is well located in close proximity to both good quality public transport and to a number of medical facilities such as St. Vincent's Hospital, Blackrock Clinic, U.C.D. and Blackrock college (which has a boarding school). It will provide valuable overnight accommodation in a quiet environment for visitors to these facilities (e.g. family members, visiting medics and academics), as well as tourists.
- The proposed courtyard is not intended as a drinking or smoking area or as a public space. The primary function is to provide visual amenity for guest rooms and given its proximity to guest bedrooms, will need to be a quiet environment. The privacy screen required by Condition 3 together with the requirement to omit the balcony to Room 16 will address the issue of potential for overlooking.

- It is disputed that there is any precedent regarding No. 28 Booterstown Ave, as no refusals have been issued by the Board. However, it is noted that a grant of permission was issued by the Board, following a recommendation to grant by DLR Council, (PL06D.236321).
- There is a 300mm drain in the centre of Booterstown Avenue which has an invert level of 12.078m and a cover level of 14.448m, which suggests that it is at least 2m deep. The water table has little reference to a site so close to the sea with a cover level of 14m. There is also a culverted stream running down the avenue. It is submitted that the proposed development would not affect the stream or the drainage system in the area and it is noted that the P.A. did not raise any concerns in this regard.
- It is disputed that the drawings are incorrect as the drawings accurately reflect the maximum height of 8.59m on the NE elevation.

6.4 Further circulation

The Board circulated the appeal to a number of statutory bodies on 1st July 2016 seeking any comments by 28th July 2016. The bodies were the DAU of the Dept. Arts Heritage and the Gaeltacht, The Heritage Council and An Taisce. However no further submissions have been made.

7.0 Assessment

7.1 The main issues arising from this appeal are considered to be as follows:

- Zoning and principle of development
- Residential amenity
- Visual amenity and architectural heritage
- Traffic and parking

- Drainage
- Precedent
- Appropriate Assessment

7.2 Zoning and principle of development

7.2.1 The zoning objective seeks to protect and/or improve residential amenity. At 2.1.3.4 of the CDP, it is stated that “in terms of protecting residential amenity, the zoning objectives are framed so as to exclude non-compatible uses”. A guest house use is “open for consideration” in the Residential A zone, and as such is not a ‘non-compatible’ use. The impact on residential amenity will be discussed in the following section. However, further guidance on the acceptability of the use in principle is contained in 2.1.3.4 of the CDP.

7.2.2 It is noted that Policy Res4 is consistent with the zoning objective for Res A in that it seeks to densify established built-up areas whilst having regard to, and seeking to improve, the existing amenities. The text recognises the considerable importance of the existing housing stock and the need to carefully manage this resource and to retain residential services and amenities. The initiatives referred to include actively promoting the conversion of the existing housing stock into a larger number of housing units in serviced urban areas and the ‘Living Over the Shop Scheme’. In order to promote the latter scheme, it is suggested that development and/or changes of use should be prevented which would seriously reduce the amenity of nearby dwellings or result in inappropriate changes of use of residential units to non-residential uses. However, it is also stated that dereliction and decay of existing dwellings should be prevented.

7.2.3 Having inspected the interior of the premises, I can confirm that the first floor was last used as a residential unit but is in a state of decay and disrepair, such that I would doubt that it is currently suitable as habitable accommodation. Thus, whilst the proposed development would result in the loss of a residential unit to a non-

residential/commercial use, it is a very large unit with no amenity space, is situated on a main road above a pub/restaurant and the accommodation has not been used for many years. Thus it is considered that, provided that the residential amenities of neighbouring properties can be protected, the proposed development would be consistent with the zoning objective.

7.3 Residential amenity

7.3.1 Noise and disturbance – the established use is as a restaurant and public house and shop, with residential (albeit vacant) accommodation above. The proposed introduction of guest house accommodation on the upper floor is unlikely, in my view, to increase the level of noise and disturbance associated with the existing use, as the proposed ensuite bedrooms are akin to residential use. Furthermore, it is likely that the proposed use would result in lower levels of noise and disturbance by means of self-policing or need for better management of the ground floor uses to prevent noise and disturbance affecting guests. Notwithstanding this, however, it is considered that areas where guests/patrons could congregate such as balconies, flat roofs or courtyards would need to be strictly controlled or omitted from the scheme. Thus, should the Board be minded to grant permission, it is considered all such external areas be prohibited for use by patrons in the interests of protecting the residential amenity of the area.

7.3.2 Overlooking - I would agree with the P.A. that the balcony to Room 16 should be omitted and that the eastern elevation of the courtyard requires screening, notwithstanding my suggestion above that no access be allowed to patrons, due to the proximity to the rear elevations and gardens of the properties immediately to the east along Willow Place. The northern elevation, which faces the side (gable-end) wall of the appellants' property has generally been designed to prevent overlooking with windows angled towards the road. However, the large glazed element which forms a feature window on the corner is a bit of an anomaly. The floor plan shows that this is to be a bedroom (No. 12) with two windows, one on each elevation, yet the elevational drawings and photomontages indicate that each of the external walls

is to be comprised of floor to ceiling glazed panels. The appellant is also concerned about overlooking from these windows. However, due to its location on the junction of the car park entrance and the street, and to the trees alongside the appellants' southern boundary, it is considered that any loss of privacy to the front of the adjoining property, or of properties on the opposite side of the street, would not be significant.

7.4 Visual amenity and architectural heritage

7.4.1 The design of the proposed extension is contemporary. However, it is designed to complement the existing building on the site, which is not a Protected Structure. Although there are many protected structures on Booterstown Avenue, (approx. 21) the only such structures in the immediate vicinity of the site are the Church of the Assumption and Parochial House opposite, Nos. 71-79 (odds) to the immediate south of the church, Nos. 36 and 38 to the immediate north of the appellants' house, and No. 54 (approx. 50m to the south of Gleeson's). However, the proposed extension is to the north of the pub and is largely contained within the site, fronting the car park. It is not, therefore, immediately proximate to, or readily visible from, any of the Protected Structures. It is considered that the proposed design would not adversely impact any of the Protected Structures nearby.

7.4.2 The site is not located within an adopted ACA. However, it is sited within a candidate ACA. Policy AR17 applies and it is noted that the advice is that all proposals should preserve or enhance the established character of buildings and the streetscape. It is considered that the architectural character, style and age of the buildings on Booterstown Avenue is very varied. As a result, the streetscape is difficult to define as there is little continuity in setbacks, building materials, styles of architecture etc. Despite this, there is a certain cohesion which is likely to be a result of a combination of the urban grain which has developed over the years, the presence of small groups or short terraces and the maturity of the landscaping along the roadside boundaries. The appeal site, however, does not fit in with this pattern as it has a large footprint which projects beyond the general setback, abutting the street. It is also clearly a

commercial premises, whereas most the properties in the vicinity are in residential use. The design of the building does not fit in with the prevailing design of period houses on the street.

7.4.3 It is considered that there is, therefore, a certain level of flexibility in terms of arriving at an appropriate design for the proposed extension. The scale, bulk, footprint and elevational treatment are considered to be generally unobtrusive. The only exception is the glazed feature on the corner of the first floor. It is considered that it does provide a focal point on the corner of the building and helps to integrate the old with the new. However, as a design feature, it is considered that it would only work if it was composed of obscure, preferable darkened, glazing. Should the Board be minded to grant permission, it is considered that a condition to this effect should be attached to any such permission.

7.5 Drainage

7.5.1 The site is located within a built-up, serviced urban area where the Development Plan policies are to densify the existing housing stock and consolidate the built form of the area. It is noted that the planning authority has not raised any issues regarding servicing or deficiencies in infrastructure. As such, it is considered that should the Board be minded to grant permission, a condition be attached requiring compliance with the planning authority's requirements in this regard.

7.6 Traffic impact and parking congestion

7.6.1 As stated above, the location is one of an established and well serviced urban character which is relatively densely developed and served by excellent public transport. There is a reasonable distribution of on-street parking, which is understandably controlled due to its proximity to the QBC and Dart station. The site is again unusual in that it has quite a large off-street car park, which is accessed by means of a standard entry/exit point. It is considered, therefore, that the introduction of the guest house use would be appropriate in terms of traffic management and travel demand related policies, (contained in the both the Development Plan and in

the Transport Strategy for Dublin), which would seek to minimise car-dependent journeys and associated uses. Section 8.2.4.5 of the CDP states that maximum parking standards should be applied for non-residential uses as a key measure in influencing travel mode choice. Table 8.2.4 of the CDP seeks 8no. parking spaces for the 16 no. guest bedrooms, due to the proximity of the site to the good quality public transport routes. Thus there would be 28 spaces remaining for the pub/restaurant use. As the patrons of the guest house may also be patrons of the restaurant, this is considered to be acceptable, particularly given the location of the site.

7.6.2 However, the proposed provision and layout of the car park should comply with the policies and standards set out in 8.2.4.6, 8.2.4.7 and 8.2.4.8 in respect of the provision of adequate spaces for people with disabilities, cycle parking and motorcycle parking. Should the Board be minded to grant permission, a condition requiring the submission of a revised layout which shows compliance with these standards should be attached to any such permission.

7.7 Precedent

7.7.1 It is considered that the precedent referred to in the grounds of appeal may relate to a previous refusal at No. 28 Booterstown Avenue, (Reg. Ref. D07A/1672), which has since been superceded by a grant of permission by the Board (PL06D.236321). In any case, it is considered that the circumstances of that case are very different to those of the current site, as No. 28 is a mid-terrace property bounded on each side by residential properties. The current proposal, however, relates to a building with a large footprint which is separated physically from other properties on all but one side, which is well removed from the site of the proposed extension. In light of these circumstances, and given the nature of the proposed development, it considered that should the Board be minded to grant permission, the issue of precedent would not arise in this instance.

7.8 Appropriate Assessment

7.8.1 Having regard to the nature and scale of the proposed development and the nature of the receiving environment in a serviced and built-up area, (as described above), it is considered that no Appropriate Assessment issues arise. It is considered, therefore, that the proposed development would not be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1 I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

9.0 REASONS AND CONSIDERATIONS

Having regard to the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022, to the scale and nature of the proposed development and to the nature and character of the surrounding environment, it is considered that subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location and would not seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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. Within 2 months of the date of this order, revised drawings shall be submitted to the planning authority which provide for the following
 - (a) The balcony to Bedroom No. 16 shall be omitted.
 - (b) A privacy screen shall be provided at first floor level along the eastern perimeter of the building.
 - (c) The feature window to Bedroom No. 12 shall be fitted with obscured glazing.
 - (d) The layout of the car park shall be revised to incorporate on parking bay for people with disabilities; one motorcycle parking space; 4 no. cycle parking spaces and 3 no. parking bays which are capable of accommodating future electric charging points.

The revised drawings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of the amenities of the area.

3. No access shall be permitted to any of the flat roofs or courtyards at first floor level save for maintenance.

Reason: In the interest of protection of residential amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Details of all external signage shall be submitted to the planning authority prior to commencement of development on the site. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall

be displayed or erected (on the building/within the curtilage of the site) unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

7. A plan containing details for the management of waste within the development, including the provision of facilities for its storage, separation and collection shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: to provide for the appropriate management of waste, in the interest of protecting the environment.

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

9. 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. 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Mary Kennelly
Senior Planning Inspector

19th September 2016