



An
Bord
Pleanála

Inspector's Report PL06D.247869

Development	Change of use of existing two storey building from commercial/retail use to single unit residential with all associated site works.
Location	4 Cumberland Street, Dun Laoghaire, Co. Dublin.
Planning Authority	Dun Laoghaire- Rathdown Co. Co.
Planning Authority Reg. Ref.	D16A/0763
Applicant(s)	Frank Quinn
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Frank Quinn
Observer(s)	None
Date of Site Inspection	15 th March 2017
Inspector	Emer Doyle

1.0 Site Location and Description

1.1. The subject site is located on the northern side of Cumberland Street, Dun Laoghaire Co. Dublin close to its junction with York Road/ Clarence Street/ George's Street Upper. Whilst the opposite side of the street at this location is residential, this side of the street is primarily commercial with a wide range of uses including a wellness centre and a number of takeaway premises. There is a laneway to the rear of the properties fronting Cumberland Street. Work is currently in progress at the adjoining premises 1-3 Cumberland Street for residential (Nos. 1 and 2) and commercial uses (No. 3).

2.0 Proposed Development

2.1. The proposed development, as described in the submitted public notices, comprises

- Change of use from existing two storey building from commercial/retail use to use as a single dwelling unit.

3.0 Planning Authority Decision

3.1. Decision

Permission REFUSED for 2 No. reasons as follows:

1. Having regard to the 'MTC' zoning objective at this location and to the pattern of development within the vicinity of the subject site, in particular the existing and permitted commercial uses at ground floor level of properties immediately adjoining the subject site to the east and west, Nos. 3 and 5 Cumberland Street respectively, it is considered that the proposed development, if granted would represent an inappropriate use at ground floor level within the Old Town Quarter of the town centre, would be injurious to the vitality of the town centre, would be contrary to the zoning objective at this location to protect and improve major town centre facilities and to Policy RET4 of the 2016-2022 Dun Laoghaire Rathdown Development Plan and Section 3.1 of the Dun Laoghaire Urban Framework Plan (Appendix 12 of the 2016 Development Plan), and

would set an undesirable precedent for similar type development in the area. The proposed development would, therefore, seriously injure the amenities and depreciate the value of property in the vicinity and be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development, by reason of the shortfall in private open space proposed to serve the dwelling unit, would be contrary to the private open space standards set out in Section 8.2.8.4 of the 2016-2022 Dun Laoghaire- Rathdown County Development and would result in a substandard level of residential amenity for future occupants of the proposed dwelling unit. The proposed development would seriously injure the residential amenity for future occupants of the proposed dwelling unit. The proposed development would, therefore seriously injure the amenities and depreciate the value of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision of the planning authority.

Concerns raised regarding residential impact in terms of quality and quantity of private open space and that the proposed development would be contrary to the zoning objective at this location.

3.2.2. Other Technical Reports

3.2.3. Transportation Planning- No objection subject to conditions.

3.2.4. Drainage Planning – No objection subject to a condition.

3.3. Prescribed Bodies

There are no reports on file from prescribed bodies.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

PAC/26/16 – Pre planning Consultation.

D07A/0135: Retention permission granted for change of use from office to retail area on ground floor.

ABP Ref. 244557/ PA Ref D14A/0807: Permission refused by Planning Authority for change of use from public house to residential at 1-3 Cumberland Street and granted on appeal to the Board. The uses at No. 1 and 2 are residential and with a commercial use in No. 3. Condition 3 of the ABP decision is as follows:

The ground floor unit at No. 3 Cumberland Street shall be confined to uses under Class 1 and Class 2 as defined under Part 4 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, with the exception that it shall not be used as a betting office. The first floor unit at No. 3 Cumberland Street shall be confined to uses under Class 2 and Class 8 as defined under Part 4 of Schedule 2 of the Planning and Development Regulations, 2001, as amended. Any other uses of these units shall be the subject of a separate planning permission.

5.0 **Policy Context**

5.1. **Development Plan**

Site is zoned as Objective MTC - To protect, provide for and/or improve major town centre facilities. residential amenity.

Section 2.1.3.4 Policy RES 4: Existing Housing Stock and Densification.

Section 3.2.2.4 Policy RET 4: Major Town Centres.

Section 8.2.3.2 Qualitative Standards.

Section 8.2.2.4 Additional Accommodation in Existing Built- up Areas.

Section 8.2.4.5 Car Parking Standards.

Section 8.2.8.4 Private Open Space.

Appendix 12 Dun Laoghaire Urban Framework Plan.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was lodged by the applicant against the Council's decision.

The grounds of appeal and main points raised in this submission can be summarised as follows:

- The proposed development is consistent with the zoning.
- The proposed development is outside the Old Town Quarter of the Urban Framework Plan and Reason No. 1 is not appropriate.
- The Urban Framework Plan states that retail space should be resisted on Cumberland Street.
- A private open space of 29 square meters is consistent with many housing units in the area.
- The application shows car parking in the open space. If parking is considered to have a detrimental impact on the open space and its use, the applicant will accept the omission of the parking.

6.2. Observations

None.

6.3. Planning Authority Response

The Planning Authority Response states that Cumberland Street forms part of Dun Laoghaire Major Town Centre and is considered to be within the Old Town Quarter.

It is also considered that Section 3.1.4 of the Urban Framework Plan in relation to

resisting additional retail activity on Cumberland Street is not applicable as the application relates to a change of use from commercial to residential.

7.0 **Assessment**

7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

- Principle of Development
- Residential Amenity
- Policy
- Other Issues

7.2 **Principle of Development**

7.2.1 The appeal site is zoned 'MTC' 'to protect, provide for and/or improve major town centre facilities. The proposed change of use from commercial to residential would therefore be acceptable in principle subject to an assessment of the impact of the proposed development on residential amenity and compliance with other Development Plan policies and objectives. I note that both uses are permitted in principle in this zoning.

7.3 **Residential Amenity**

7.3.1 The main concerns raised in relation to residential amenity relate to quality of private open space. I note that the second reason for refusal considered that the proposed development by reason of the shortfall in private open space would be contrary to the private open space standards set out in Section 8.2.8.4 of the Development Plan. The Development Plan requirement is 48m² for a two bedroom dwelling and a total of 29m² has been provided. The site is served by a laneway to the rear and a car parking space is provided which is accessed from the laneway. The appeal states that if parking is considered to have a detrimental impact on the open space and it's use, the applicant will accept the omission of the parking. It is the applicant's

preference to retain the parking, as it provides flexibility to meet the needs of the occupants in the future.

In my view, the space provided is of reasonable quality for an existing terraced property in a town centre location and I consider that there needs to be flexibility in relation to standards for locations such as this. It is noted that the existing property at this location is served by a private open space with a stated area of 13m². There is no overlooking as the property faces onto a laneway. Having regard to the north facing orientation, I do not consider that the future occupant's amenity will be improved to a significant degree by enlarging the garden by omitting the car parking space. I note also, that there are a number of public open spaces in close proximity to the site. Having regard to the excellent public transport options serving the area and the town centre location, I am satisfied that car parking could be omitted at this location as there is flexibility in Section 8.2.4.5 of the Plan in such locations. The applicant has stated a preference to retain the car parking but could omit same and increase the private open space should this be required by the Board.

I am of the view that no significant benefit to future occupiers would be achieved by increasing the private open space and omitting the car parking. I am satisfied that the design and layout are of good quality and that the proposal generally complies with the Development Plan policies in relation to such works and that the proposal is consistent with the proper planning and sustainable development of the area.

7.4 Policy

- 7.4.1 The key issue in this appeal relates to the zoning of the site as 'Major Town Centre' and Policy RET4 which relates to town centre locations. Policy RET9 states that it is council policy to control the provision of non-retail uses at ground floor locations in the principal shopping streets of Major Town Centres. Policy RET3 identifies the core retail area of Dun Laoghaire as 'Georges Street, from Bloomfield's Shopping Centre to Corrig Avenue- the northern part of Patrick Street and the central part of Marine Road. Section 3.1 of the Urban Framework Plan states that the creation of additional retail space along Cumberland Street and Monkstown Road will be resisted in order to help consolidate retail activity.

The site is identified as being within the Old Town Quarter in the Urban Framework Plan.

7.4.2 I consider that the site is close to the edge of the major town centre zoning, is not on a principle shopping street and is well outside the core retail area identified by the plan and this is clearly evidenced by the nature of land uses in the vicinity of the site. In terms of resisting retail space on Cumberland Street, I accept the response of the Planning Authority that this does not apply to this case as the proposal provides for a change of use rather than a new commercial use. However, I consider that both residential and commercial uses would be acceptable at this location. The other side of Cumberland Street is primarily residential. I note that there is a high level of vacant units in the town centre of Dun Laoghaire and I consider that the policy to resist retail development on Cumberland Street takes this into account. I note that units 1 and 2 have recently been granted as residential uses in an appeal on the site and I consider that the proposed residential use is appropriate at this location having regard to the history of the area, the non- peripheral location of the site, and the limited scale of the development. In general, I consider that the proposal is a positive use of what is a vacant property would contribute towards the vibrancy of the town centre.

7.5 Other Issues

7.5.1 Appropriate Assessment

7.5.2 Having regard to the nature of the proposed development, which comprises partial demolition and construction of an extension to an existing property in an urban location on serviced lands I am satisfied that 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.

8.0 Recommendation

- 8.1. I recommend that permission is granted in accordance with the following reasons, considerations, and conditions.

9.0 Reasons and Considerations

Having regard to the location of the site and the pattern of development in the vicinity, to the current land use zoning objective for the site as set out in the Dun Laoghaire Rathdown County Development Plan 2016-2022, and to the nature and limited scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the retail core area of Dun Laoghaire, would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. 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. The materials, colours and textures of all the external finishes to the proposed house shall be submitted to and agreed in writing with the planning authority before the commencement of construction of the house.

Reason: In the interest of orderly development and the visual amenities of the area.

3. Water supply and drainage arrangements, including 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 and to ensure a proper standard of development.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

6. The proposed resurfacing of the rear access laneway shall be carried out, at the developer's expense, in accordance with the detailed requirements of the planning authority. All access doors to the laneway shall be so designed as not to open outwards onto the laneway.

Reason: To ensure a proper standard of development and in the interest of pedestrian and traffic safety.

7. A plan containing details for the management of waste and recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and recyclable materials and for the ongoing operation of these facilities within each plot 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 and recyclable materials, in the interest of protecting the environment.

8. 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 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.

Emer Doyle
Planning Inspector

11th April 2017