



An
Bord
Pleanála

Inspector's Report PL29N.248257

Development	Change of use of 2 no. enterprise units to 2 no. two-bedroom apartments
Location	64-65 Prussia Street, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2021/17
Applicant(s)	Vabtol Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First-Party
Appellant(s)	Vabtol Limited
Observer(s)	None
Date of Site Inspection	19 th June 2017
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1.1. The appeal site is located on Prussia Street, to the northwest of Dublin city centre, close to the junction with Saint Joseph's Road and backing onto open space and mature trees associated with the Presbytery houses within the grounds of the Church of the Holy Family.
- 1.1.2. It contains a mixed-use development generally consisting of two connected blocks with vehicular access under a passageway off Prussia Street. The front block is four storeys in height with almost 18m frontage onto Prussia Street. A hair salon and café occupy the ground floor of the front block with 8 no. apartments on the upper floors. The rear block is three storeys in height and at ground floor contains a dental laboratory and a vacant enterprise unit, with 6 no. apartments at first and second-floor level. Between the two blocks is a semi-covered car park including refuse collection and service areas at surface level. Bicycle parking is available within the passageway separating the two rear enterprise units. A raised courtyard sits above the car park at first-floor level, and a pedestrian bridge connects the blocks at second-floor level. The rear of the site comprises a narrow strip of land, which is not physically-identifiable on the ground. The external finishes to the buildings generally comprise a mix of brick, plaster and cladding.
- 1.1.3. The surrounding area is characterised by a range of uses including terraced buildings with ground floor and off-street commercial uses and residential units on the upper levels onto Prussia Street. There is a mix of residential, recreational, education, ecclesiastical, employment and retail uses in the immediate vicinity. Ground levels in the vicinity drop gradually and consistently to the south towards Manor Street.

2.0 Proposed Development

- 2.1.1. The proposed development as lodged with the planning authority comprises change of use of two enterprise units at ground floor in the rear building block, to 2 no. two-bedroom apartments. Proposals also include for revisions to the internal layout and inclusion of new windows and doors in the rear elevation of the subject units. A 2.2m-high paladin fence will be erected along the rear boundary and the private open space associated with the two proposed apartments.

2.1.2. Two sets of revised proposals were submitted with the appeal by the appellant. The first set of revisions (Drawing Nos. 2_210 and 2_230) proposes to recess the bedroom windows onto the internal courtyard in order to create terrace space. The second set of revisions (Drawing Nos. 2_211 and 2_231) also proposes recessed terraces to the bedrooms, but only one of the enterprise units would be subject of a change of use to a two-bedroom apartment.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for two reasons:

- **1.** Having regard to the zoning objective Z6 – ‘to provide for the creation and protection of enterprise and facilitate opportunities for employment creation’, the proposed conversion of the two permitted enterprise units would result in the loss of employment floorspace on the site and an unacceptably high proportion of residential use, which would no longer be subsidiary to the employment uses on the site, and which would set an undesirable precedent for further developments of this type in the immediate area, resulting in further erosion of the employment floorspace within the Z6 area. The proposal would therefore be contrary to development plan provisions and to the proper planning and sustainable development of the area.
- **2.** The proposed provision of bedroom windows facing directly onto a shared car parking area, with no separation or privacy strip, would result in a poor standard of residential amenity to the future occupants, in respect of noise and aspect. The proposal would therefore be seriously injurious to residential amenity and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer reflects the decision of the planning authority. The Planning Officer notes the following:

- A range of other uses, including residential and local support businesses are open for consideration within the zoning but are seen as subsidiary to the primary employment use;
- The units have not been consistently occupied since construction due to their location at the rear of the site, with one of the units having been vacant for a long period;
- The proposed development is to the rear of the site, and would therefore not impact on the conservation area;
- Permission was previously refused on the site for conversion of one of the enterprise units to a three-bedroomed apartment (under DCC Ref. Ref. 2523/12);
- Proposals provide for 2 no. two-bedroomed residential units which meet the current Departmental standards and provide for adequate private open space;
- There is concern that the proposal would reduce the proportion of employment to non-employment uses within the subject building, and could set an undesirable precedent for further changes of use in adjoining development;
- It is not clear that the applicant has investigated the feasibility of providing other uses on the site which could be employment-generating and in keeping with the zoning objective;
- The development was designed to provide for non-residential uses at ground-floor level with residential uses and their associated open space, at the upper levels.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) - no objection subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third-Party Submissions

None.

4.0 Planning History

4.1. Subject Site

4.1.1. Applications relating to the development on site:

- 4300/02 – Permission **granted** (March 2003) for mixed-use development comprising two blocks with a total of 14 apartments and 4 enterprise units;
- 3681/03 – Permission **refused** (September 2003) for amendment to previous permission (4300/02) comprising provision of additional third-floor to rear block;
- 3401/04 – Permission **granted** (September 2004) for amendment to condition 16 to previous permission (4300/02) relating to opening times of the enterprise units;
- 5495/04 – Permission **granted** (February 2005) for change of use of enterprise units 1 and 2 fronting onto Prussia Street to retail use;
- PL29N.222565 (DCC Ref. 6884/06) – Permission **granted** (July 2007) for variation of condition 3 of 5495/04 to allow for extended opening hours to vacant shop;
- 2523/12 – Permission **refused** (June 2012) for change of use of 1 no. rear enterprise unit to three-bedroom apartment.

Reason 1. – Contrary to Z6 zoning as the increase in residential component of the site would not be subsidiary to the employment generating uses.

Reason 2. The proposed 3-bedroom apartment did not meet relevant standards in respect of the size of the unit, and due to the substandard size and poor outlook of the private open space.

4.1.2. Historical applications relating to the subject site include:

- PL29N.110514 (DCC Ref. 2774/98) – Permission **granted** (September 1999) for change of use from light industrial to mixed-use including enterprise units, retail and residential;
- 2659/00 – Permission **granted** (November 2000) for revisions to previous permission 2774/98 to provide for a replacement building comprising 3 light industrial units to the rear;
- 0575/01 – Permission **granted** (May 2001) for revisions to previous permission 2774/98 to allow change of use of 2 no. ground floor shop units to 2 no. office units.

4.2. Surrounding Sites

There have been several recent relevant planning applications for similar change of use proposals on neighbouring sites:

- 62/63 Prussia Street – PL29N.205534 (DCC Ref. 4977/03) – Permission refused (May 2004) for change of use from 3 industrial units to 3 ground floor apartments;
- Stanley Court, 63 Prussia Street – 5180/05 – Permission **granted** (January 2006) for change of use of light industrial unit to education facility.

5.0 Policy Context

5.1. Development Plan

5.1.1. The majority of the appeal site has a zoning objective 'Z6 –Employment/Enterprise' within the Dublin City Development Plan 2016-2022 with a stated objective "to provide for the creation and protection of enterprise and facilitate opportunities for employment creation".

- Residential use is open for consideration on lands zoned objective Z6;
- Residential and other uses will be at an appropriate ratio where they are subsidiary to the main employment-generating uses and shall not conflict with the primary land-use zoning objective;

- Z6 lands constitute an important land bank for employment use in the city.

5.1.2. A narrow strip of undeveloped land to the rear of the appeal site has a zoning objective 'Z1' 'Sustainable Residential Neighbourhoods' the Development Plan with a stated objective "to protect, provide and improve residential amenities". The frontage to the site is located within a Conservation Area.

5.1.3. Section 16.10 of the Plan provides Standards for Residential Development, including apartments.

5.2. National Guidelines

- Sustainable Urban Housing: Design Standards for New Apartments. Guidelines for Planning Authorities.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant has submitted 2 sets of revised plans with the appeal. The first set of Plans have been prepared to specifically address Reason No. 2 of the planning authority's decision. The second set of revised proposals only provide for one of the two enterprise units to be subject of a proposed change of use to residential use.

The grounds of appeal are as follows:

- The existing building has various constraints including limited car parking for the enterprise units;
- There have been significant difficulties over a period of years in finding potential occupants for the enterprise units;
- The proposed apartments meet Development Plan standards with regards to minimum floor areas;
- The Development Plan acknowledges that 'Z6' land uses generate considerable levels of traffic and accordingly the subject site with limited parking and access is not suitable to accommodate same;

- A more practical analysis of the situation is required, rather than rigid adherence to statutory planning objectives;
- The proposed development will not result in the loss of employment floorspace, as the vacant enterprise unit on site has proved unviable;
- The existing ratio of residential floorspace to employment floorspace is already quite high and the proposed development will not significantly alter this;
- The original design of the scheme was not the most viable and the applicant should be allowed to address shortfalls in the original scheme via revised proposals;
- Applicant has a potential residential tenant for the proposed development and include submissions from an estate agent, the potential tenant and an assessment report from the HSE;
- Modifications to the scheme are presented to create defensible space between the internal car park and the bedrooms to the proposed apartments;
- Revised proposals presented propose that only one of the two enterprise units will be subject of a change of use to a two-bedroom apartment;
- There are changing economic and environmental factors impacting on this area.

6.2. Planning Authority Response

The planning authority will rely on the planner's report and has no further comment.

6.3. Observations

None.

7.0 Assessment

7.1. Introduction

7.1.1. The following assessment initially covers the points made in the appeal submission, and also encapsulates my *de novo* consideration of the application. The applicant has also submitted two revised options for the proposed development as part of their appeal and I will consider both of these options separately, as part of my assessment below. The main planning issues in the assessment of the proposed development are as follows:

- Principle of the Development;
- Residential Amenity;
- Revised Proposals.

7.2. Principle of the Development

7.2.1. The Prussia Street area is characterised by a range of lands uses with pockets of 'Z6' employment/enterprise lands in the immediate vicinity of the appeal site, including both the adjoining properties to the north and south. The grounds of appeal highlight difficulties in finding occupants for the subject enterprise units. While I accept that the positioning and serviceability of the units may not be ideal, I note that vacancy levels in the wider area, including other Z6 lands, are relatively low. Furthermore, it is noted that one of the existing two permitted enterprise units on the appeal site is currently occupied by a dental laboratory.

7.2.2. Within the Planning Officer's report on the application it is noted that permission was previously refused on the appeal site for change of use of the two subject enterprise units to a three-bedroom apartment (DCC Ref. 2523/12 refers) and there was also an appeal refused on the adjoining site at 62/63 Prussia Street (PL29N.205534 refers) for change of use of three industrial units to three ground-floor apartments. Reasons for refusal for both these developments generally related to the loss of employment space and concerns regarding the residential amenity of the apartments. While I recognise that there has been some diminution of employment uses within this part of the inner city, employment uses continue to play an important

role and function for the city encouraging a mix of employment, enterprise and residential development in the same community.

- 7.2.3. The Development Plan sets out that the use of lands zoned 'Z6 Employment/Enterprise' for residential purposes is open for consideration, but that the extent of residential use on site must be subsidiary to the primary employment use. It is noted that currently on site there are 14 no. apartments, a café, a hair salon, a dental laboratory and a vacant enterprise unit. Consequently, the appeal site is very much dominated by residential uses. The grounds of appeal contend that the proposals will not significantly alter this scenario and rigid adherence to the objectives of the Z6 zoning fails to recognise the realities in finding continuous occupants for the enterprise units. While I recognise the current imbalance of uses on site, I do not believe that this provides ample justification for setting aside the 'Z6' enterprise and employment objectives applying to the site through further reduction of employment-generating uses. Change of use of the enterprise units to residential use would completely remove the pure employment uses from the site, which would conflict with the zoning objectives for the site.
- 7.2.4. It can be concluded that the proposed change of use of the remaining enterprise units to residential development within a site zoned Z6 for employment/enterprise objectives, is considered to be contrary to the zoning objective for the site.

7.3. Residential Amenity

- 7.3.1. The Planning Officer's report on the application states that both of the proposed apartments meet current Departmental standards and provide adequate private open space. While quantitative assessment reveals that the internal space and private amenity space provision for both apartments meet the relevant Development Plan standards, the planning authority considered that the absence of a separation or privacy strip between the bedrooms and the internal courtyard car park would result in a poor standard of residential amenity for future occupants. In my opinion the positioning of bedrooms with their only windows onto the internal semi-covered courtyard, which is used for car parking and refuse collection would not be conducive to a high standard of residential amenity, as sought in standards outlined in Section 3.28 of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities. While I note that these Guidelines recognise

that achievement of standards may not always be possible in refurbishment developments, in my opinion the relationship of the proposed bedrooms with the internal courtyard would lead to a substandard form of development, as the amenities of future occupants of the apartments would be unduly affected by noise, a lack of security and poor level of privacy.

- 7.3.2. I note that the proposed units are dual aspect, but that Section 16.10.1 of the Development Plan highlights that particular care is needed where windows are located on lower floors that may be overshadowed by adjoining buildings. The surface level courtyard receives minimal sunlight and daylight consequent to orientation, the position of the raised courtyard at first-floor level and the position, scale and height of buildings on site and on neighbouring sites. The proposed bedrooms onto the internal courtyard would receive very limited natural light.
- 7.3.3. Private amenity space for the apartments is proposed to the rear in the form of enclosed terraces (24sq.m and 17sq.m). A 2.2m high paladin fence is proposed to secure the rear boundary of the site including the private amenity space. It is accepted that the quantum of private amenity space meets minimum requirements based on the Development Plan, however, should the Board be minded to grant permission, a suitably worded condition should be attached requiring a revised boundary treatment to the rear, as the proposed 2.2m high paladin fence would compromise the quality of this private amenity space and result in a poor level of outlook from the living space of the proposed apartments.
- 7.3.4. The original design and layout of the development at 64-65 Prussia Street did not readily allow for the subject units to be adapted into residential use and I have several concerns regarding the amenity of the units, as is set out above. I acknowledge the submission from the applicant referring to a specific potential residential tenant for one of the units, however, considering the above matters, it is clear to me that the subject ground-floor units would be better served as enterprise units and not as residential units. The proposal would therefore be seriously injurious to the residential amenities of future occupants of the units.

7.4. Revised Proposals

- 7.4.1. As noted the appellant has submitted two revised options for the proposed development to address the planning authority's reasons for refusal. The first set of revised proposals (Drawing Nos. 2_210 and 2_230) provide for a recessed area onto the internal car park to create terraces serving each of the bedrooms in the two proposed apartments. This physical separation would not overcome my concerns regarding the substandard form of development and the implications for the residential amenities of future occupants of the apartments. Furthermore, by recessing the bedroom windows this would be likely to further reduce levels of natural light to the apartment bedrooms.
- 7.4.2. The second set of revised proposals (Drawing Nos. 2_211 and 2_231) also provide for recessed terraces to the bedrooms, but only the currently vacant enterprise unit on the northside of the site, will be subject of a change of use to a two-bedroom apartment. While I note that this revision would not completely remove the employment uses from the site, in my opinion this would significantly erode the employment uses on the site, which would conflict with the objectives for this Z6-zoned site.
- 7.4.3. In conclusion, neither of these revised options overcome my concerns regarding the principle of the development and impacts on residential amenity. However, it is recommended that should the Board be minded to grant permission, suitably worded conditions should be attached requiring the payment of both Section 48 Development Contributions and Section 49 Supplementary Development Contributions, in accordance with the Planning & Development Act 2000, as amended.

8.0 Appropriate Assessment

Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

I recommend that permission is **refused** in accordance with the following reasons and considerations.

10.0 Reasons and Considerations

1. Having regard to the zoning of the site, the objective of which is 'to provide for the creation and protection of enterprise and facilitate opportunities for employment creation', it is considered that the proposed development, which would result in the loss of employment uses on the site, would be contrary to the said zoning objective and would be contrary to the proper planning and sustainable development of the area.
2. It is considered that the layout and design of the proposed apartments with bedroom windows directly onto an internal courtyard car park and service area, would constitute a substandard form of development, and by reason of poor levels of natural light, security and privacy, and with potential for undue impact from noise would be seriously injurious to the residential amenities of future occupants of the apartments. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

27th June 2017