



An
Bord
Pleanála

Inspector's Report PL09.248571.

Development	Change of use of residential building to office use with demolition of single storey annexe to create apartment to the rear with building alterations and all associated site works.
Location	Main Street and Back Lane, Maynooth, County Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	17/234.
Applicants	Mary and Deirdre Cullen and Eamon Mag Uidhir.
Type of Application	Permission.
Planning Authority Decision	Refusal.
Type of Appeal	First Party
Appellants	Mary and Deirdre Cullen and Eamon Mag Uidhir.
Observers	None.
Date of Site Inspection	21 st August 2017.
Inspector	Derek Daly.

1.0 Site Location and Description

- 1.1. The appeal site is located on Main Street in the centre of the town of Maynooth and also has frontage at the rear onto Back Lane.
- 1.2. On the site fronting directly onto Main Street is a two storied terraced building currently in residential use. The properties on either side of the appeal site are also two storied. At the rear of the dwelling is a flat roof single storey extension and to the rear of the single storied extension is a 2/3 storied building connected to the main building but providing for independent accommodation with living, dining and sleeping areas referred to in the submitted drawings as “the Lofts”.
- 1.3. The building at the Main Street frontage is a three bay building dating back to the 18th century and the front elevation retains the traditional proportions and finishes.
- 1.4. The building to the west is in commercial use and the building to the east of similar proportion to the building on the appeal site is in commercial use.
- 1.5. At the rear of the site fronting onto Back Lane is a mews building two storied in height. There is a garden area between the two main properties on the site.

2.0 Proposed Development

- 2.1. The proposed development as submitted to the planning authority was for the change of use of the residential building fronting onto Main Street to office use with demolition of the single storey rear annexe to create an apartment to the rear. No increase in floor area is proposed and the development provides for a reduction in floor area by the demolition of a single storied annexe with a floor area of approximately 9m². This annexe is a physical connection between the existing house fronting Main Street and the loft structure.
- 2.2. The proposed development also provides for a wall to be constructed across the site at the rear of the loft dividing the site between main dwelling and the remainder of the site. This will provide an open area at the rear of the existing dwelling / proposed office area.
- 2.3. In relation to the changes proposed I would refer to drawing 502b received by the planning authority on the 6th of March 2017.

3.0 **Planning Authority Decision.**

3.1. **Decision**

The decision of the planning authority was to refuse permission. One reason was stated which refers to the development as haphazard piecemeal development and to section 17.4.9 of the county development plan referring to backland development and that the development would be in conflict with the provisions of this section.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The planning report dated the 25th of April 2017 refers to;

- The site in the context of built heritage.
- The planning history.
- Reference is made to the assessment of the previous application and the current proposal to be retained and the applicant's submission in response to the previous refusals on the site.
- It is considered that the proposed development would be contrary to the provisions of section 17.4.9 of the KCDP.
- The change of use of the dwelling to an office use would be permissible in principle.
- Refusal recommended.

3.2.2. Other Technical Reports

The architectural conservation officer recommended further information on how fire regulation compliance will affect the historic interior of the building.

Other reports indicate no objections.

4.0 **Planning History**

P.A. Ref. No 02/2255.

Permission granted for the reconstruction and extension of a stone outhouse building with a gallery annexe extension and for a two storey mews building fronting onto Back Lane. Extension of 86.9m² onto an existing dwelling of 84.8m². Condition no.2 relating to a single dwelling occupancy was included.

P.A. Ref. No 13/1033.

Permission refused to subdivide the site providing for separation of the main building from the remainder of the site and retain the lofts unit as a residential unit orientated and associated with the mews building. Two reasons were stated referring to inadequate open space for the building on Main Street and that the loft apartment did not comply with the definition of a family apartment.

P.A. Ref. No 14/0976.

Permission was refused for a revision of the site boundaries separating the loft and mews residential units from the remainder of the site and for the change of use of the building on Main Street to office use on the basis of overdevelopment and piecemeal development.

5.0 Policy Context

5.1. Development Plan

Kildare County Development Plan 2017-2023.

Chapter 4 of the plan relates to housing.

In relation to private and public open space in section 4.9 policy OS 1 indicates it is a policy to *“Ensure that all dwelling units have access to high quality, functional private open space that is carefully integrated into the design of new residential developments”*.

Sub- division of dwellings is referred to in section 4.11 residential development in established urban areas – infill, backland, subdivision of sites and corner sites.

It is indicated that the *“Council will generally take a supportive approach to accommodating the provision of new or refurbished housing development in town centre locations where such proposals positively contribute to the overall vitality and vibrancy of the town/village”*.

Family flats are indicated as a way of providing additional accommodation with a level of independence for an undefined temporary period of time. Applications for family flats will be considered subject to criteria set out in Chapter 17 of the Plan.

Relevant policies include;

SRO 2: To consider backland development generally only where development is carried out in a planned and coordinated manner.

Policy SRO 4 in relation to family flats indicates as a policy *“to facilitate the provision of a family flat or mews type development in circumstances where the planning authority is satisfied that the proposal complies with the standards set out in Chapter 17 of this Plan”*.

Development management standards are referred to in chapter 17 of the plan.

Section 17.4 refers to residential development outlining standards in relation to design, unit sizes and areas for houses and apartments, open space, parking etc.

Table 17.5 outlines minimum private open space requirements for dwelling houses and Table 17.7 Minimum amenity Space Requirements for apartments.

Section 17.4.9 of the plan refers to family flats where it is indicated that;

This is a temporary arrangement to accommodate an immediate family member or a carer within an existing dwelling unit in a semi-independent capacity. Applications for a family flat shall have regard to the following requirements:

- *Applicants shall submit documentary evidence at application stage to demonstrate the need for a family flat.*
- *The proposed unit should be linked directly to the main dwelling by a connecting door.*
- *Accommodation must be subsidiary to the main dwelling in scale and only in exceptional cases will more than one bedroom be permitted.*
- *Any external doors permitted (to provide access to private / shared open space or for escape from fire) shall be limited to the side or rear of the house.*

It is normal procedure to include conditions in any grant of permission that the family flat cannot be sold, conveyed or leased separately from the main residence, and that

when the need for the family flat no longer exists the dwelling must be returned to a single dwelling unit.

Maynooth Local Area Plan 2013-2019.

Site is zoned AI town Centre and is within an Architectural Conservation Area. The building on the site is not a protected structure but is referred to in the National Inventory of Architectural Heritage.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant in the grounds of appeal refers to;

- Every effort is made to minimise physical works and the only works proposed is the demolition of the single storey annexe and a dividing wall between the proposed office and the residential element of the site.
- The Lofts and the Mews were built together as a pair and are accessed by way of a covered passageway off Back Lane.
- The proposal provides the most sustainable way of allowing the underutilised main building fronting onto Main Street to come back into use while retaining the existing residential buildings on the site.
- Reference is made to the detailed planning report made in the application to Kildare County Council.
- The back garden is not restricted but a beautifully maintained garden shared by both buildings and is sufficiently large for town centre living.
- The development complies with development plan guidelines and national guidance for apartments in relation to the provision of private open space.
- The development does not constitute overdevelopment or injure the amenities of properties in the vicinity.
- The development is an apartment and not a family flat.
- The loft and mews were designed to integrate with one another and the access in the mews was to accommodate the loft building.

- There is nothing to suggest the development would be an undesirable precedent or is piecemeal or haphazard development.
- There were no technical objections to the development.

6.2. Planning Authority Response

The planning authority indicated that they had no comment other than requesting the Board to refer to their internal reports.

7.0 Assessment

- 7.1. The proposal as submitted is for the change of use of the residential building fronting onto Main Street to office use with demolition of the single storey rear annexe to create an apartment in the “loft” structure to the rear. No increase in floor area is proposed and the development provides for a reduction in floor area by the demolition of a single storied annexe with a floor area of approximately 9m². This annexe is a physical connection between the existing house fronting Main Street and the loft structure.
- 7.2. The proposed development also provides for a wall to be constructed across the site at the rear of the loft dividing the site between main dwelling and the remainder of the site. This will provide an open area at the rear of the existing dwelling / proposed office area.
- 7.3. I have outlined in section 5 of this report the policy context and the provisions of the current statutory development plans.
- 7.4. In principle the change of use from residential use to office use is acceptable subject to compliance with development guidelines adherence and I would have no objection to the principle of a change of use of the main building to office use.
- 7.5. No physical changes are proposed to the front elevation of the building fronting onto Main Street and given the site’s location in an Architectural Conservation Area and the current front elevation it would be desirable to retain the current front façade and safeguard against unsympathetic signage. This could be addressed by condition.
- 7.6. The county development plan in chapter 4 relating to housing has adopted a proactive approach in the consideration of the sub- division of dwellings in

established urban areas whether it is infill, backland, subdivision of sites and corner sites. It also recognises the importance of generally taking a supportive approach to accommodating the provision of new or refurbished housing development in town centre locations where such proposals positively contribute to the overall vitality and vibrancy of the town/village.

- 7.7. Many of the issues in relation to the current appeal, I consider, arise from the planning history of the site. There are in effect three structures on the site, the house fronting onto Main Street, a mews fronting onto the Back Lane and a structure referred to as the loft between the two other structures. The loft has a physical single storey link to the house on Main Street but is orientated towards the mews rather than house and this symmetry was established in the initial design and layout of the mews and loft structures. Permission was granted for this arrangement of the building units on the site though there was a physical link retained between the house and the loft.
- 7.8. In general terms I consider that the provisions of section 17.4.9 of the plan which refer to family flats are reasonable as they are perceived as a temporary arrangement to accommodate an immediate family member or a carer within an existing dwelling unit in a semi-independent capacity.
- 7.9. In this context the requirements as set out of a link to the main dwelling and consideration that the unit must be subsidiary to the main dwelling in scale are reasonable as a general rule. It is also normal procedure to include conditions in any grant of permission that the family flat cannot be sold, conveyed or leased separately from the main residence, and that when the need for the family flat no longer exists the dwelling must be returned to a single dwelling unit and these provisions are, I consider, reasonable requirements.
- 7.10. It would also be reasonable that they would be applied generally to most sites and be appropriate to most sites. Each proposal, however, must be considered on its merits and the current site requires the specific criteria of the subject site including the site history and the location be assessed on that basis.
- 7.11. In relation to the current site I would hold the view that consideration could be given to the proposal as submitted.

- 7.12. The site is a town centre site. It is not a primarily residential area where a change of use to non-residential uses are less likely to be considered. The change of use of the house fronting onto Main Street to office use is acceptable.
- 7.13. The loft section of the development has been permitted and constructed. The loft structure is oriented to the mews dwelling and can be and is accessed via the mews dwelling through the provision of an arch. Although the mews and loft are not physically connected they in design, concept and orientation form a unit.
- 7.14. The site can accommodate through the construction of a boundary structure a separation of the office area and residential area. The removal of the single storey annexe would provide a reasonable open area to the rear of the office use and would not detract from the loft structure.
- 7.15. Although they are not physically connected the design and layout of the mews and loft area provide for a quality residential environment in a town centre location. The proposal I consider would therefore positively contribute to the overall vitality and vibrancy of the town centre.
- 7.16. It would be reasonable and desirable that any grant of permission would require that the two structures, the mews and loft, remain a single planning unit and that that the loft flat/apartment cannot be sold, conveyed or leased separately from the main residence which would if the change of use was permitted be the mews. In this way the loft accommodation would be subsidiary to the main dwelling in this case the mews.

8.0 Recommendation

- 8.1. I recommend that permission be granted.

9.0 Reasons and Considerations

Having regard to the site's location in the town centre, the pattern of development in the immediate vicinity of the site and the planning history of the site it is considered that the proposed development will positively contribute to the overall vitality and vibrancy of the town centre, and 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, as amended by the further plans and particulars submitted on the 6th of March 2017, 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. The change of use of the building fronting onto Main Street is for solely for office use.

Reason: In the interests of clarity.

2. The existing mews dwelling structure and the residential structure referred to in the drawings and correspondence as the loft dwelling unit shall be considered as a single residential unit and neither structure shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the loft residential unit as part of a single residential planning unit and in the interest of residential amenity.

Reason: In the interests of clarity

- 3 Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, the placement of any sign or advertisement material on the front elevation shall be the subject of a separate application for permission to the planning authority.

Reason: To enable the planning authority to assess the impacts of any such signage on the amenities of the area.

- 4 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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 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

. Derek Daly
Planning Inspector

12th September 2017