



An
Bord
Pleanála

Inspector's Report ABP-300743-18

Development	Permission for development at the first floor consisting of the material change of use of the first floor level of the building from office use to sports and recreation use, namely a Jiu Jitsu gym. The works will consist of internal reconfiguration of the existing layout, along with the construction of an accessible lift at the front entrance of the structure.
Location	28, Corrig Road, Sandyford Business Park, Dublin 18
Planning Authority	Dun Laoghaire Rathdown Co. Co.
Planning Authority Reg. Ref.	D17A/0965
Applicant(s)	Gracie Barrie
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First v. Decision
Appellant(s)	Gracie Barrie Dublin Limited
Observer(s)	Helen Fitzpatrick
Date of Site Inspection	18 th April 2018
Inspector	Erika Casey

1.0 Site Location and Description

1.1. The subject site is located to the east of Corrig Road and has a stated area of 0.199 ha. An area of open space and Carmanhall Road are located to the north. Two existing office buildings are located to the south and further offices and commercial development are located to the east and west. The site currently accommodates a two storey office building with a floor area of 836 sq. metres. The ground floor is in office use, occupied by Enable Ireland, whilst the upper floor is vacant. Car parking is provided to the side and rear of the building.

2.0 Proposed Development

2.1. The proposed development comprises the change of use of the first floor level of the existing office building to sports and recreation use, namely a Jiu Jitsu gym. A small yoga studio is also proposed. The gym will have a floor area of 440 sq. metres. Works comprise the internal re-configuration of the existing layout and the construction of an accessible lift at the front entrance of the structure. It is clarified in the appeal documentation that the external lift is no longer required to comply with Disability Access Certificate and this element is proposed to be omitted.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 To Refuse Permission for 1 no. reason:

1. *“The proposals involve the making of a material change in the use of part of a structure from office to sports and recreational are contrary to Specific Local Objective 119, Objective F3 and Objective F4 of the Sandyford Urban Framework Plan, part of the Dun Laoghaire Rathdown County Development Plan 2016 – 2022 and are considered contrary to the proper planning and sustainable development of the area.”*

3.2. Planning Authority Reports

3.2.1. **Planning Report (15.12.2017)**

- The proposed use change from an office to a gym is acceptable on the basis of land use zoning considerations.
- If permitted, the proposals may prejudice the realisation of the specific local objective to create a new District Park on the subject site and on adjoining lands.
- The provision of public open space is necessary to complement and serve high density residential and office uses in the surrounding area.

3.2.2. **Other Technical Reports**

Drainage Planning (04.12.2017): No objection.

Transportation Planning (13.12.2017): No objection subject to conditions.

3.3. **Prescribed Bodies**

- No reports received.

3.4. **Third Party Observations**

Helen Fitzpatrick, 405 Cubes 6, Beacon South Quarter, Sandyford

3.4.1 Issues raised are similar to those in the observation made on the appeal and relate to:

- Concerns regarding potential noise impacts.
- Requests restrictions on hours of operation and hours of construction.
- Query whether there is sufficient on-site parking.

4.0 **Planning History**

4.1 There is no recent planning history pertinent to the subject site. There is an historic permission (Application Reference D96A/0591) granted in October 1996 for signs and alterations to the front and side elevation.

5.0 Policy Context

5.1. Development Plan

5.1.1 The operative Development Plan for the area is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The Sandyford Urban Framework Plan forms part of the County Plan. Under this plan, the subject site is located within Zone 7: Open Space and is zoned Objective F: *To preserve and provide for open space with ancillary active recreational facilities.* There is a Specific Local Objective (SLO119) pertaining to the lands which states:

“To develop a Sandyford Business District Civic Park at the corner of Corrigan Road and Carmanhall Road.”

5.1.2 It is stated in the plan:

Objective in Zone 7, F3

“It is the objective of the Council to develop a Sandyford Business District Civic Park (circa 0.8ha of public open space). A balance will be struck in the design and layout of this park between the smart, civic quality of an urban square, and the casual, spontaneous nature of a residential area. This will include significant water features, a high degree of sculptural influence play opportunities, including those for children’s play, hard and soft landscape features and extensive tree planting.”

Objective in Zone 7, F4

“It is an objective of the Council to provide public open space for active and recreational uses as identified on Drawing 10. The Local Authority will actively pursue the provision of this public open space. This public open space will be funded in accordance with the Development Contributions Scheme adopted for the Plan area.”

5.2. Natural Heritage Designations

- None applicable.

6.0 The Appeal

6.1. Grounds of Appeal

- The works required to facilitate the development consist of the internal reconfiguration of the existing internal layout. The proposed change of use has limited material impacts as no additional floor area is proposed. Note that it has been confirmed that the proposed external lift is not required for a Disability Access Certificate and this element is now omitted from the proposal.
- The subject site is zoned 'Open Space' and forms part of a larger site which the Planning Authority are seeking to develop as a civic park. A sports facility is permitted in principle under this zoning objective. This is acknowledged in the Planning Authority Planner's Report.
- The proposed development will not have any impact upon the provision of the proposed park as the development relates to a change of use within the existing envelope of the building.
- Commercial activity cannot be halted until a Compulsory Purchase Order (CPO) has taken place having regard to the property values and the property owner's constitutional right to earn a living. Ultimately a CPO will be required to provide a park at the subject lands. It is completely unreasonable to stymie the applicant from running their business and utilising the existing building until this process takes place.
- It is unlikely that development contributions required to fund the park have accrued at this juncture. There has been limited development since 2016 that would have supplied the quantum of contributions required to purchase the relevant site and implement the park further to a Part 8 application.
- It makes no difference to the potential future CPO process if the first floor of the building is used as an office or Jiu Jitsu studio as it is all contained within the envelope of the existing building.
- If permission is not granted, the building will continue in use as an office. It is considered however, that the proposed gym would provide greater diversity in

the range of services available to the increasing resident population and employees of Sandyford.

- With regard to the potential for a temporary permission, reference is made to some relevant precedent decisions including An Bord Pleanála Reference PL06D.238317 and Planning Application Reference 3673/17 (Dublin City Council). Note that the applicant is willing to accept a temporary permission of the Board is so minded.

6.2. Planning Authority Response

- Notes that the Sandyford Urban Framework Plan resembles a masterplan for the area and the level of detail provided reflects the importance of the area.
- The grounds of appeal focus primarily on the zoning of the subject site to the exclusion of other development plan objectives. In this case, objectives SL0119, F3 and F4 are of relevance. Intensive use of lands in the vicinity of the site is predicated on the delivery of a public park on the subject site. Reference made to An Bord Pleanála Ref. PL06D.248782 where the Inspector noted the importance of the Sandyford Business District Civic Park in the Council's Green Infrastructure Strategy.
- The Planning Authority notes the applicant is entitled to the active economic use of the subject site and the use of the site as offices is not at issue. It is considered however, that new development should comply with the development objectives relevant to the subject lands.
- Notes that it is common practice for local authorities to acquire land by way of agreement as well as by CPO. The Planning Authority provides no commercially sensitive information in relation to its funding position and the level of development contributions for the proposed park accrued to date. However, the Planning Register indicates significant increase in the number and scale of developments approved since 2016.
- Remain convinced that the proposals involve a material change in the use of part of a structure from office to sports and recreational use and is contrary to the objectives of the Sandyford Urban Framework Plan.

- Notwithstanding the view that the appeal should be refused, if the Board are minded to grant permission, it is requested that any temporary permission should not exceed 3 years in duration.

6.3. Observations

Helen Fitzpatrick, 405 Cubes 6, Beacon South Quarter, Sandyford, Dublin 18

- Note that no detail is provided regarding sound proofing and concerns raised regarding potential noise impacts.
- Consider that restrictions should be imposed on the proposed opening hours for the gym and when construction activities can be undertaken.
- Query whether sufficient parking is provided on site.

7.0 Assessment

7.1 The main issues in this appeal are those raised in the grounds of appeal and observation. Appropriate Assessment also needs to be addressed. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Principle of Development.
- Impact on Residential Amenity.
- Appropriate Assessment.

7.2 Principle of Development

7.2.1 The proposed development comprises the change of use of the upper floor of an existing and established office building to use as a Jiu Jitsu gym. The site is zoned Objective F: *To preserve and provide for open space with ancillary active recreational amenities* under the Sandyford Urban Framework Plan 2016-2022 (adopted as part of the County Development Plan) and sports facility is permitted in principle under this zoning objective. It is stated in the Planning Authority's planner's report that the proposed use is acceptable on the basis of land use zoning considerations.

- 7.2.2 Having regard to the zoning of the site, I consider that the proposed change of use to a gym would be classified as an ancillary active recreational amenity and thus consistent with the zoning objective for the area. It will diversify the range of uses and amenities available to workers and residents of the Sandyford area and is acceptable from a planning perspective.
- 7.2.3 The subject site also has a specific objective relating to it – SLO119 which is to develop the Sandyford Business District Civic Park at the corner of Corrig Road and Carmanhall Road. It is contended by the Planning Authority that the proposed change of use is contrary to this objective and if permitted would undermine the realisation of this objective.
- 7.2.4 The subject site forms one of three existing office buildings, all of which are located within zone 7 and subject to the specific local objective. As the site of the proposed park is currently occupied by active office uses, it is apparent that these buildings will need to be acquired through a compulsory purchase order (CPO) or through some other form of agreement with the relevant landowners to facilitate the development of the civic park.
- 7.2.5 The applicants have set out that the proposed change of use is within the envelope of the existing building and as such will have no material bearing on the delivery of the proposed park in the future. No additional floor area is proposed and as it is now proposed to omit the external lift, all proposed works are internal and relate to the reconfiguration of the existing layout. I would concur with the view of the applicant and can see no impediment to the delivery of the park whether the subject building is in use as an office or as a gym. Having regard to the criteria that are typically considered in a CPO process, I am satisfied that the change of use to a gym would not prejudice the future acquisition of the subject lands or their development as a public park.
- 7.2.6 Whilst the objective for a public park at this location is clearly set out in the Framework Plan, it is noted that there is no clear timeframe specified as to when the park will be delivered. Furthermore, the provision of such is dependent on funding accrued from the Development Contribution Scheme adopted for the plan area. Therefore, it may be a number of years before the subject park comes to fruition. It

would appear entirely unreasonable that any works to the proposed building in the interim period would be effectively sterilised by such an objective.

7.2.7 Whilst the principle of the development is objected to by the Planning Authority, they have noted that if the Board are minded to grant permission, that a temporary permission for a period of 3 years be imposed. The applicant has detailed that they are of the view that a temporary permission is not needed, however, they are willing to accept a condition to that effect. Having regard to the uncertainty over the funding and timescale for the delivery of the subject park, I am of the view that a temporary permission in this instance is not warranted. However, if the Board are minded to impose such a condition, I would recommend that the period of such a temporary permission should be 5 years.

7.3 Impact on Residential Amenity

7.3.1 Concerns have been raised by the observer regarding potential impacts of the development on the residential amenities of the area. With regard to concerns relating to construction and operational hours, it is considered that this can be addressed and controlled by way of condition. Similarly, issues of potential noise impacts can be addressed by condition.

7.3.2 The observer has queried whether adequate car parking is provided to serve the development. It is noted that the Transportation Planning Department had no objection to the development subject to the provision of adequate bicycle parking facilities. The subject site is served by a parking area to the side and rear of the existing building. Based on the Development Plan standard of 1 space per 20 sq. metres of gross floor area for gym/sports club, would generate a requirement for c. 22 spaces. This quantum of parking can be accommodated on the site. The Sandyford Industrial Estate is also well served by public transport, including the Luas and is within walking distance of a large residential catchment. Having regard to the foregoing, I am satisfied that there is adequate parking to serve the development and that the development will have no material adverse traffic impacts.

7.4 Appropriate Assessment

7.4.1 Having regard to the nature and scale of the proposed development, the change of use to a gym within an existing building on serviced land within an established urban area, and the distance to the nearest European site, 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 It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the open space zoning objective for the site as set out in Sandyford Urban Framework Plan in the Dun Laoghaire-Rathdown County Development Plan, 2016 – 2022 and to the nature of the proposed development within the envelope of an existing building, it is considered that, subject to compliance with the conditions set out below, the proposed development would not prejudice the delivery of the Sandyford Business District Civic Park at this location as set out under Specific Local Objective 119, would not seriously injure the amenities in the vicinity of the site and would 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 proposed hours of operation of the gym shall be between 0630 hours and 2200 hours Monday to Friday and 0800 hours to 2200 hours at the weekend and public holidays.

Reason: In the interest of residential amenity.

3. Details of any signage including method of illumination shall be submitted to the Planning Authority and agreed in writing prior to the commencement of development.

Reason: To protect the visual amenities of the area.

4. 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.

5. a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling shall not exceed:-

(i) An Leq,1h value of 55 dB(A) during the period 0630 to 2200 hours from Monday to Sunday inclusive.

(ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component. At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

(b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: To protect the residential amenities of property in the vicinity of the site.

6. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 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.

7. Prior to the occupation of the development, the applicant shall provide 7 no. secure, covered bicycle spaces in accordance with the requirements of the DLRCC Standards for Cycle Parking and Associated Cycling Facilities for New Developments.

Reason: In the interests of the proper planning and development of the area.

Erika Casey
Senior Planning Inspector

19th April 2018