



An
Bord
Pleanála

Inspector's Report ABP301330-18

Development	Removal of the existing roof to Unit 1C in the Greenmount Industrial Estate, creation of a new entrance lobby and the construction of a new residential unit at first floor level and all associated works.
Location	Unit 1C Greenmount Industrial Estate, Harold's Cross, Dublin 12.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2053/18.
Applicant	Peter McNamara.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party -v- Refusal.
Appellant	Peter McNamara.
Observers	Finola Reid and Others.
Date of Site Inspection	12 th July, 2018.
Inspector	Paul Caprani.

Contents

1.0 Introduction.....	3
2.0 Site Location and Description	3
3.0 Proposed Development	4
4.0 Planning Authority’s Decision	5
4.1. Decision	5
4.2. Initial Assessment by the Planning Authority	5
5.0 Planning History.....	7
6.0 Grounds of Appeal.....	7
7.0 Appeal Responses.....	9
8.0 Observations.....	9
9.0 Development Plan Provision.....	10
10.0 Planning Assessment.....	11
11.0 Recommendation	14
12.0 Appropriate Assessment	14
13.0 Decision	14
14.0 Reasons and Considerations	15

1.0 Introduction

ABP301330-18 relates to a first party appeal against the decision of Dublin City Council to issue notification to refuse planning permission for the construction of a three-bedroomed apartment at first floor level within an industrial unit and associated office at the Greenmount Industrial Estate, Harold's Cross, Dublin 12. Dublin City Council in its single reason for refusal argued that the proposed development would constitute piecemeal residential development in an industrial estate, which is zoned for the creation and protection of enterprise and employment creation.

2.0 Site Location and Description

- 2.1. The Greenmount Industrial Estate is located beyond the Grand Canal to the immediate west of Harold's Cross Road, approximately 3 kilometres south-west of Dublin City Centre. It is an old established industrial estate with a number of buildings dating from the late 19th century which are included on the Record of Protected Structures. The industrial estate is accessed via Greenmount Avenue from Harold's Cross Road and Greenmount Lane from Parnell Road to the north of the site, which runs along the southern side of the Grand Canal. The estate is surrounded by 19th century residential development primarily comprising of single-storey urban cottage type dwellings. Mount Jerome Cemetery and Our Lady's Hospice is located to the south of the site.
- 2.2. The industrial estate comprises of approximately 25 units which are informally set out around 3 separate courtyard areas. The individual buildings comprise of older large 19th century early industrial type buildings (which are included in the Record of Protected Structures) together with newer single-storey and two-storey units and sheds dating from the 1960s up to the present day. The courtyard area is between the industrial units and is used as a circulation area and for parking of vehicles to the front of the units. The units accommodate a range of industrial and commercial activities including small scale manufacturing, car servicing, catering service, yoga and fitness centres and warehouse storage.

- 2.3. To the immediate east of the unit, an old wall and gate pillars, historically led to Hatter's Lane, a narrow laneway which leads to Greenmount Sq. and Greenmount Lane to the northeast of the industrial estate. The wall and gate pillars are listed on the record of protected structures, but have been blocked up by a brick wall in more recent years.
- 2.4. The subject site is located at the north-western corner of the industrial estate. It is located to the immediate north of a recently constructed two-storey bakery. It comprises of a part single-storey and two-storey stone building. The two-storey element, located to the rear and facing northwards onto a small area of parking, accommodates a workshop at ground floor level and an office area above. The larger single-storey element which faces eastwards onto the main courtyard comprises of a single storage area. The building comprises of a stone and brick finish with a corrugated steel roof. The total floor area of the building is stated on the planning application form as 425.8 square metres.

3.0 Proposed Development

Planning permission is sought for the construction of a new first floor within the workshop area to the north of the adjoining bakery in order to accommodate a three-bedroomed residential unit. A new entrance is proposed on the northern elevation adjacent to the existing office area and this is to lead upstairs to a three-bedroomed residential unit. The bedrooms are to be located on the northern side of the building while the kitchen, dining and living area is to be located to the eastern end adjacent to a terrace which is to overlook the courtyard area of the industrial estate. The total floor area of the proposed first floor apartment is just less than 136 square metres. The existing office and workshop area to the rear is to be retained. It is proposed to incorporate a new monopitched roof which will result in an increase in the overall roof height from 6.35 metres to 7.75 metres. The external elevation is to comprise of a seam aluminium wall cladding which is copper green in colour and a seam aluminium grey roof. The proposed windows serving the habitable rooms are located on the northern and eastern elevation of the building. A small terraced area is also located at the western end of the apartment between the proposed structure and the two-storey office element of the building.

4.0 Planning Authority's Decision

4.1. Decision

- 4.1.1. Dublin City Council issued notification to refuse planning permission for the single reason set out in full below.

The location of the proposed apartment is at the rear of an active industrial estate zoned Z6 'to provide for the creation and protection of enterprise and facilitate opportunities for employment creation'. The proposed apartment unit would constitute piecemeal residential development on Z6 zoned lands and, due to its location at the rear of an active industrial estate with no clear access route for use by the occupiers of the residential unit, would seriously injure the residential amenities of future occupiers of the apartments in terms of the conflict between commercial and residential land use and access through the industrial estate. The proposed development, in itself and by the precedent established for piecemeal residential development within the active industrial estate on Z6 zoned lands, would seriously injure the amenities of property in the vicinity, would fail to afford a satisfactory standard of residential amenity to future occupiers and would be contrary to both the policies and zoning objectives of the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

4.2. Initial Assessment by the Planning Authority

- 4.2.1. The planning application was lodged with Dublin City Council on 12th January, 2016.
- 4.2.2. The planning application was accompanied by a covering letter which notes that there is a number of non-conforming uses currently established in the industrial estate. It also states that the applicant operates his business from the premises and intends to develop the apartment overhead for his own use and that of his family. It is also stated that the apartment unit will be constructed to ensure that appropriate insulation exists to mitigate against excessive noise from adjoining premises. Details are also provided in respect of waste management and car parking. It is stated that a single car parking space will be allocated to the apartment.

- 4.2.3. It notes that there are three protected structures within the industrial estate including a boundary wall and pillars which is located within the application site. The applicant would welcome a condition to agree remedial works with the conservation officer to consolidate the top of the wall and repoint the wall as necessary. It is stated that the existing window opes on the northern elevation which have been blocked up at ground floor level will be reinstated (see photographs). Details of the structural approach to constructing the first-floor apartment and drainage arrangements are also set out.
- 4.2.4. A report from the Engineering Department – Drainage Division stated that there is no objection to the proposal subject to standard conditions. A number of letters of objection were submitted, primarily from residents living in surrounding residential areas. Concerns were expressed in relation to the undesirable precedent which the proposed development would create, the impact on protected structures and the impact on surrounding residential amenities.
- 4.2.5. A report from the Roads and Traffic Planning Division states that there is no objection to the proposed development subject to standard conditions.
- 4.2.6. A report from the Conservation Officer requests additional information including a detailed historic and conservation appraisal of the impact of the proposal on the protected structure including comprehensive repair proposals.
- 4.2.7. The planner's report notes that the proposed residential unit would be located above and adjoining existing industrial units within an active industrial estate. It is considered that the proposed apartment would constitute piecemeal residential development on these Z6 zoned lands. It is also noted that there is no clear access route for use by the future occupiers of the residential unit. It is considered that, due to its location to the rear of an active industrial estate with no clear access route for use by the occupiers of the residential unit, the proposed development would seriously injure the residential amenities of future occupiers of the apartment and would result in a conflict between commercial and residential land uses with access through the industrial estate. Dublin City Council therefore issued notification to refuse planning permission for the single reason set out above.

5.0 Planning History

5.1. No files are attached. Reference is made to the following in the planner's report.

E0264-12 – This relates to an enforcement file opened in April, 2012 in relation to development works taking place on the laneway to part of the protected structure (new gates) at Hatter's Lane.

Under Reg. Ref. 3375/11 planning permission was granted for alterations to the existing building to the immediate south of the site.

6.0 Grounds of Appeal

- 6.1. The decision of Dublin City Council to issue notification to refuse planning permission was appealed on behalf of the applicant by Kiaran O'Malley, Town Planning Consultants. The grounds of appeal are outlined below.
- 6.2. The proposed apartment unit is for occupation by the applicant and the applicant has not objection to a planning condition that links ownership of the proposed apartment with the business at the appeal site. For personal circumstances the applicant needs to provide a home for his family and he owns the appeal site and the business operating from his workplace. The subject site constitutes a secluded location and abuts 13 dwellings at Parnell Court and Parnell Road and as such is readily suitable for residential accommodation.
- 6.3. It is argued that the proposal is sympathetic to the character of the existing building which involves the reopening of window apertures at ground floor level and the incorporation of a choice of materials and finishes that would complement the character of the existing building.
- 6.4. It is also noted that Dublin is facing an acute accommodation crisis and a more flexible approach for small scale interventions such as that proposed is appropriate.
- 6.5. A residential use is open for consideration under the Z6 zoning objective. It is also noted that there will be no loss of employment floor area as a result of the proposal.
- 6.6. With regard to the Hatter's Lane access, it is stated that this lane historically provided access to the Greenmount Industrial Estate. It was blocked up in recent years. However, the appellant has agreed with the Council Conservation Officer to

reinstate the wall which is listed as a protected structure and reinstate the former historic point of access to the Greenmount Estate and to provide for a pedestrian and cyclist access.

- 6.7. With particular regard to Dublin City Council's decision, the following is stated.
- 6.8. It is not accepted that a proposal constitutes piecemeal development; it is standalone proposal which is a unique response to the appellant's circumstances. The secluded location of the appeal site would ensure that it constitutes a standalone development.
- 6.9. Greenmount has a somewhat eclectic mix of uses not all of which constitute industrial uses (such as yoga, boxing club, personal trainer, gym facility etc.) It is not a heavy industrial location which attracts largescale HGV activity. It is submitted that the mix of uses could easily co-exist and integrate with residential development.
- 6.10. It is not accepted that the proposed development will seriously injure the residential amenities of future occupiers, as residential development is open for consideration under the Z6 land use zoning objective. The proposed development meets apartment standards, waste requirements, parking and noise requirements and this was adequately set out in the covering letter submitted with the application to the Planning Authority. There is no proposal in the current application to change the vehicular access to the site which is via Greenmount Avenue. The estate has open access 24 hours a day, 7 days a week. The provision of an apartment at the appeal site will not materially change the traffic generation.
- 6.11. In the event that the Board considers it necessary to segregate residential and commercial pedestrians and cyclists, it is invited to attach a planning condition for the provision of a controlled access at Hatter's Lane. Hatter's Lane is in the charge of Dublin City Council and it is used by residents of Greenmount Square and Parnell Road.
- 6.12. Having regard to the residential properties to the west and north it is considered that the appeal site is located in a transitional zone and it cannot be reasonably argued that the proposed development will seriously impact on the amenities of property in the vicinity. It is suggested that an intensification of industrial activity on the appeal site would be more likely to negative impact on the residential amenity. Separation distances between the proposed apartment and adjoining residential development at

Parnell Road would be over 40 metres. If the Board have concerns in relation to the northern elevation of the proposed apartment the appellant would reluctantly accept a condition that replaces the full two height windows in the living room.

- 6.13. It is noted that the Roads and Traffic Planning Section has not objection to the proposal. Furthermore, the proposal exceeds all the standards set out for new apartments and the provision of open space is more than 5 times the required minimum standard. The Board is invited to attach a number of conditions in order to address the concerns of the Planning Authority and these are set out in the grounds of appeal.

7.0 Appeal Responses

It appears that Dublin City Council have not submitted a response to the grounds of appeal.

8.0 Observations

- 8.1. One observation was submitted on behalf of a number of residents 17-21 Parnell Road by Marston Planning Consultancy. This observation supports the decision of the Planning Authority. The observation sets out details of the history of the industrial estate. It notes that there is a substantial levelled difference between Hatter's Lane and the industrial estate which would not be suitable for vehicular or cycle access. The observation goes onto to detail the proposed development and concludes that the proposal would represent an ad hoc and unplanned residential development within an industrial estate. It also suggests that a condition requiring that the proposed apartment and commercial unit shall be retained in single ownership is wholly unenforceable.
- 8.2. The appellant has provided no corroborative evidence regarding the personal circumstances which requires him to live at this location. While it is acknowledged that there is a housing crisis within the Dublin area, decisions must be based on the proper planning and sustainable development of the area and the proposal is wholly unsupported by any policy or best practice.

- 8.3. It is argued that there are no grounds for providing a pedestrian/cyclist link through the reinstated wall at Hatter's Way.
- 8.4. The proposal represents piecemeal development as there is no connectivity to other residential areas. Any reference to precedent decisions in and around the Greenmount Industrial Estate is not relevant as the current circumstances are fundamentally different.
- 8.5. Under the Z6 zoning objective, residential development shall only be permissible where it does not conflict with the primary land use zoning objective of the lands. This is not the case in this instance. The subject proposal incorporates a number of north facing windows which would impinge on the privacy of the dwellings to the north on Parnell Road. The Planning Authority's conclusion that there is an inadequate level of residential amenity to future occupiers is also supported. It is suggested that where Dublin City Council have granted planning permission for residential development in industrial estates, these estates have been supported by public roads and definable development blocks within which residential development can occur in a planned and co-ordinated manner. The proposal is entirely incompatible with the existing and varied industrial uses within the industrial estate. While the apartment may comply with design standards, its location is wholly unsuitable for apartment development.

9.0 Development Plan Provision

- 9.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022. The subject site is zoned for employment/enterprise – Zone 6, the objective of which is to provide for the creation and protection of enterprise and facilitate opportunities for employment creation. The plan states that it is considered that Z6 lands constitute an important landbank for employment use in the city which is strategically important to protect. The primary objective is to facilitate the long-term economic development of the city region.
- 9.2. The plan goes on to note that the uses in these areas will create dynamic and sustainable employment and these uses include innovation, creativity, research and development, science and technology and the development of emerging industries and technology such as 'Green Clean' technologies. Permissible uses will be

accommodated in primarily office based industry and business technology parks developed to a high environmental standard and incorporating a range of amenities including crèche facilities, public open space, green networks and leisure facilities. A range of other uses including residential, local support businesses are open for consideration on lands zoned Z6 but are seen subsidiary to the primary use as employment zones. The incorporation of other uses such as residential, recreational and retail uses will be at an appropriate ratio where they are subsidiary to the main employment generation uses and shall not conflict with the primary land use zoning objective nor with the vitality or viability of nearby district centres.

- 9.3. Residential use is a use which is open to consideration under the Z6 zoning objective.

10.0 Planning Assessment

- 10.1. I have read the entire contents of the file, have had particular regard to Dublin City Council's notification to refuse planning permission and the first party appeal rebuttal together with the arguments set out in the observation supporting the decision of the Planning Authority. I have also visited the subject site and its surroundings.
- 10.2. While I acknowledge that residential development is open for consideration under the Z6 zoning objective, the development plan is clear in stating that Z6 lands constitute an important landbank for employment use within the city which it is strategically important to protect. The primary objective of this land use zoning is to facilitate the long-term economic development of the city region. Smaller type industrial estates with the city centre are particularly important to ensure that a sustainable mix of uses including employment uses are provided within the city and inner-city area. Presently, the Greenmount Industrial Estate is totally occupied by commercial uses be they industrial, light industrial or recreational (gyms, yoga, boxing clubs etc). There is no precedent within the industrial estate for residential use. I would agree with the Planning Authority that a grant of planning permission for a change in the upper storey of a building to accommodate a first-floor apartment is somewhat ad hoc and piecemeal. The proposal is a response to an individual set of personal circumstances associated with the applicant. Where the proposal part of a more local strategic framework plan which sought to introduce a specific residential

element in part of the industrial estate, it could be considered on its merits. However, to introduce a residential component within an existing building which is completely surrounded by industrial / commercial buildings within the estate would be inappropriate in my opinion as it does not relate to any specific framework for the future development of such lands.

- 10.3. The appellant argues that the proposed development is surrounded by residential dwellings to the west and north and that the proposed development should be assessed in this context. I would reject such an argument on the grounds that the dwellings to the east and north back onto the industrial estate separated from the industrial estate by large boundary wall. While residential development may be contiguous, it is not integrated. The proposed residential unit would be located fully within the confines of the industrial estate and would address the industrial estate in terms of its aspect.
- 10.4. The grounds of appeal argue that many of the uses currently accommodated within the estate (such as yoga , fitness gyms, dance studios and actors' agency office), are compatible with residential development. The Board will note that the industrial estate also accommodates a number of less compatible uses including bakeries and food processing, motor repairs, builders workshop, waste management and shop fitters etc. These activities can be somewhat noisy and can give rise to significant odours particularly in the case of the bakery and waste management. The residential development located in the north-eastern corner would be surrounded by these issues and would pass such industrial uses while exiting and egressing the industrial estate. Furthermore, it is possible and indeed quite likely having regard to the land use zoning objective, that over time, the nature of the industrial uses will change and it is possible that more incompatible uses with residential development could be permitted within the estate. It would be totally inappropriate in my view that the presence of residential development within the industrial estate could restrict and influence the type and nature of uses which could be established within the industrial estate on the grounds that certain industrial uses may be incompatible with residential development.
- 10.5. The grounds of appeal also suggest that the applicant easily complies with open space requirements associated with apartment development. I acknowledge that large terraced areas are provided at first floor level. However, the general

environment in which these terraced areas would overlook cannot in my view be considered aesthetically pleasing as they look onto the forecourt/courtyard associated with industrial units. The amenity associated with the land surrounding the existing unit on site which comprises of a forecourt and traffic parking area can only be described as poor in my opinion.

- 10.6. With regard to the opening up of Hatter's Way to provide access to the proposed apartment, I note that the applicant is intending that the opening up of this access would merely be to facilitate cyclists and pedestrians and would not be used for vehicular access as suggested in the observation submitted on file. Any improved pedestrian and cycle access to the subject site away from the main entrance to the Greenmount Estate would not in my view address the fundamental concerns relating to the proposed development, namely that the change of use from an industrial/storage unit to residential would be incompatible on land use terms. I would agree with the Planning Authority that the proposed development would not constitute an appropriate residential environment and would prejudice the residential amenities of future occupiers.
- 10.7. The grounds of appeal state that there is no objection to the Board attaching a condition requiring the residential apartment to be intrinsically linked to the commercial unit and should not be sold as a separate entity. Whether or not such a condition is legally enforceable is debatable in my opinion. Furthermore, I do not think any such condition would allay my concerns in relation to a grant of planning permission in this instance. The incorporation of a residential unit on an ad hoc piecemeal basis at the north-western corner of the industrial estate in order to address personal circumstances is not an appropriate way to adjudicate on planning applications where there are serious concerns regarding the compatibility and juxtaposition of different land uses.
- 10.8. I would agree with the grounds of appeal however, that the separation distance between the proposed apartment and the existing dwellings on Parnell Park at c.40 metres would be suitable to ensure that no significant adverse overlooking occurs between the houses on Parnell Park and the subject site.
- 10.9. Finally, I would bring the Board's attention to recent applications made under ABP-300983, ABP-300984 and ABP-300910 all of which related to a change of use of

buildings at the KCR Industrial Estate from office to residential and the construction of new residential blocks within the confines of the industrial estate. In the various reports, a recommendation to grant planning permission was made by the reporting inspector (at the time of writing this report these applications had yet to be determined by the Board). However in my opinion, the circumstances for a grant of planning permission are wholly different than the current application before the Board, in that the former applications for 15 residential units were located to the front of the KCR Industrial Estate and fronted onto a residential street and as such, it is argued that the proposed development was compatible with adjoining residential development. In the case of the current application before the Board, what is proposed is a single residential unit above an existing industrial unit at the north-eastern corner of the industrial estate and I consider the current proposal before the Board constitutes a piecemeal and ad hoc development in the context of the industrial estate and is on the whole incompatible with contiguous land uses.

11.0 Recommendation

Arising from my assessment above therefore I recommend that the Board uphold the decision of Dublin City Council and refuse planning permission for the proposed development.

12.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity 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.

13.0 Decision

Refuse planning permission for the proposed development based on the reasons and considerations set out below.

14.0 Reasons and Considerations

It is considered that the proposed development constitutes piecemeal ad hoc residential development on lands governed by the zoning objective Z6 'to provide for the creation and protection of enterprise and facilitate opportunities for employment creation'. It is considered that the proposed residential unit would be incompatible with the nature of contiguous uses within the existing active Greenmount Industrial Estate and would therefore seriously injure the residential amenities of future occupants of the property and would result in incompatible uses side by side within the estate. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector.

3rd September, 2018.