



An
Bord
Pleanála

Inspector's Report ABP-302167-18

Development	Change of use of existing ground floor shop/retail unit to one bedroomed ground floor apartment, and associated site works.
Location	35, Emmet Road, Inchicore, Dublin 8
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2926/18
Applicant(s)	Aisling O'Sullivan & Padraig Murphy
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Aisling O'Sullivan & Padraig Murphy
Observer(s)	None
Date of Site Inspection	10 th October 2018
Inspector	Ronan O'Connor

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1.0 Site Location and Description

1.1. The appeal site is located on the north side of Emmet Road, close to the junction with Turvey Avenue, and opposite Luby Road. The unit subject to this appeal is a vacant retail unit with a vacant residential unit on the first floor. There is a small rear yard which is currently overgrown. The unit sits between two other commercial units, a takeaway to the west at No. 37 Emmet Road and a bike shop to the east at No. 33 Emmet Road. It was not clear from my site visit, or from the evidence on the appeal file, if the bike shop is operational and was closed at the time of my site visit (11am). There is a public house further to the east at 29 Emmet Road, 'The Glen of Aherlow'.

2.0 Proposed Development

2.1. Change of use of existing ground floor shop/retail unit to one bedroomed ground floor apartment, and associated site works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Refuse permission for two reasons relating to (i) loss of active street frontage, loss of the existing shopfront, and impact on the operational capacity of the existing commercial units and (ii) privacy and safety of proposed potential residents, substandard accommodation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority.

- Ground floor apartment just meets the standards.
- First floor apartment is significantly sub-standard at 39 sq. m/does not have a toilet/does not appear to have planning permission.

- Proposed change would result in a reduction in intensity of the use on site and a loss to an active street frontage contrary to SDRA 9.
- Does not contribute to the creation of attractive, active, functional streets.
- Does not respect the uniformity of the street nor does it provide an active frontage.
- Proposal would not complement the existing context and character of adjoining shopfronts.
- Proposal, located between an existing takeaway and a shop unit, in close proximity to a public house, would lead to a loss of amenity of the ground floor residence.
- Recommendation was to refuse permission.

3.2.2. Other Technical Reports

Drainage – No objection.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

1214/96 – Grant – Change of use from a shop to apartments.

0150/95 – Grant – Change of use from a shop to a dwelling.

5.0 Policy Context

5.1. Development Plan

5.1.1. Dublin City Development Plan 2016-2022.

5.1.2. The site is zoned Z1 'To protect, provide and improve residential amenities'.

5.1.3. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

Section 16.2.1 Design Principles.

Section 16.10.1 Residential Quality Standards – Apartments.

Section 16.24.2 Shopfronts.

5.2. **Natural Heritage Designations**

5.2.1. None.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. The First Party Grounds of Appeal are as follows:

- Suggest that these units were originally constructed as residential units and over time, three of the four units were converted to retail/commercial use.
- Existing residential unit at the end of the terrace has functioned perfectly well as a domestic dwelling/creates a precedent.
- Previous permissions to change the use to residential (0150/95 & 1214/96).
- Only one of the units is in use – the Chinese takeaway.
- 7 of 26 retail units in Inchicore are vacant/28% of retail units.
- Appeal site is located approximately 700m from the centre of Inchicore.
- Future of the appeal site as a commercial unit is not viable.
- In the current economic climate with the shortage of housing, led to believe a change of use would be permitted in certain circumstances.
- Residential unit meets standards/is not substandard.
- Existing first floor unit has existing for some considerable time and pre-dates any planning and building regulations.

- Applicants would be prepared to increase the size of the unit from 39 sq. m. to 55 sq. m. to meeting current standards.
- Main intention is to transform what is now an eyesore to a modern residence.
- No shop, office or retail unit ever operated successfully from here.
- Is relevant for the planning authority to factor in the commercial viability of a commercial unit.
- Is not within a parade of established shop units as stated in the planner's report – is beside a takeaway and a vacant unit.
- Is not clear how the proposal would 'disrupt the operation of the adjoining shop units'.
- Planner's report does not mention DCC policy of converting the upper floors of buildings to residential.
- Unreasonable to impose modern standards on the existing property.
- Upstairs unit has a WC contrary to the planner's report.
- Refusal and planner's report ignores intention to restore a dilapidated property into two high standard residences/does not mention need for housing.
- No objections to the planning application.
- Many other residential units that are in close proximity to a pub.

6.2. **Planning Authority Response**

6.2.1. None.

6.3. **Observations**

6.3.1. None.

7.0 Assessment

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development/Loss of Retail
- Residential Amenity/Residential Standards
- Design
- Appropriate Assessment
- Environmental Impact Assessment

7.2. Principle of Development/Loss of Retail/Impact on Existing Units

7.2.1. The site lies within a Z1 zoned area. Residential development is a permissible use within this zoning.

7.2.2. In relation to the loss of retail, I note the site does not lie within the area identified as the Principal Shopping Streets (Category 1 and Category 2 streets), where the overall aim is to preserve the primary retail function of these streets. A further criteria set out in Section 16.29 is the need to safeguard the vitality and viability of shopping areas in the city and to maintain a suitable mix of retail uses. The appeal site does not lie within a defined shopping area and lies some 200m from the parade of shops on the South Circular Road, and at least 300m from the main shopping parades of Inchicore. The report of the planner officer refers to the St. Michael's Estate Strategic Regeneration Area (SDRA 9) and notes that the proposal would be contrary to the policies relating to this regeneration area, specifically that it would involve a reduction of intensity of use and a loss of active street frontage along Emmet Road. However, the appeal site does not lie within the defined boundaries of this regeneration area (as defined in Fig 29 of the Development Plan) and as such these policies do not apply.

7.2.3. Having regard to the lack of policy protection for this particular retail unit, and a lack of policy justification for the protection of an active street frontage at this particular location, and having regard to the location of the appeal site at some distance from the shopping parades to the east and west of the site, and having regard to the

predominantly residential nature of surrounding development, there is no objection in principle to the loss of the retail use at this location.

7.2.4. Furthermore I do not consider that the introduction of a residential use in this unit would, in and of itself, prejudice the operation of the adjacent units. There are residential units already established in this parade and it is my view that it is the location of these three commercial units, at some distance from the established shopping parades, that limits the viability of these existing units.

7.3. Residential Amenity/Residential Standards

7.3.1. A concern of the planning authority was the impact of surrounding uses on the amenity of the future occupiers of the units. A further concern was the impact of having living accommodation directly onto the footpath.

7.3.2. The appellants contend that there are existing residential units within this terrace of properties, and that furthermore there are many residential units in Dublin City that are near public houses.

7.3.3. I note the existence of the residential unit at No. 31 Emmet Road, directly adjacent to the public house. This is a 2 bed unit with living accommodation over both levels. Publically accessible information in relation to No. 31 Emmet Road, including floor plans, are accessible at www.myhome.ie ¹The floorplans show a 2 bed unit, with a stated floor area of 83 sq. m, with a hall entrance, with a living room and dining room at ground floor level, and bedroom accommodation above (a copy of these floorplans has been placed on the file for the Board's perusal).

7.3.4. As such, the unit at No. 31 is not directly comparable to the unit under consideration here, when considering relative standards of accommodation. In relation to the floor area of the proposed unit, the plans state a floor area of 45 sq. m. This does not tally with the stated individual room areas, and the storage area. I have calculated the total floor area as 43.26 sq. m, which is slightly under the minimum required standard (45 sq. m.) as set out in Section 16.10.1 of the Development Plan. The unit proposed here has a front access which leads directly into the living room, with no defensible space to the front.

¹ Accessed 12th October 2018

7.3.5. The appeal site is directly adjacent to the takeaway unit, which is operational. It is not clear if the bike shop on the other side is operational, and the appellant has stated that this is vacant. Notwithstanding the lack of clarity in relation to the bike shop use, I consider the proximity of the proposed residential unit to the takeaway use, combined with very limited floor area of the unit, and combined with the access to the living room gained directly from the street, results in a unit that is substandard in terms of the accommodation provided and would lead to a poor standard of amenity for future occupants of the property.

7.4. **Design**

7.4.1. The proposal will result in amended front and rear elevations to the building in question, with the introduction of another access door at ground floor level, the replacement of the existing glazing with a window to serve the ground floor unit, the introduction of two windows rather than the existing single window at first floor level, as well as patio doors and a window to the rear.

7.4.2. I note the planning authority has concern in relation to the removal of the shop front within a consistent group of traditional shopfronts, and considered the proposal was contrary to Section 16.42.2 (Shopfronts) of the Development Plan.

7.4.3. My observations on site were that the existing shopfronts to the appeal site building and on the adjacent takeaway building have been modified extensively and could not be regarded as traditional shopfronts. The unit to the east has retained some detailing, or has been recently refurbished to reinstate this detailing. Notwithstanding this, there is little consistency to the shopfronts in terms of traditional detailing, and there is already a residential unit within this terrace, at No. 31 Emmet Road.

7.4.4. As such I do not consider that the proposal is, in fact, contrary to Section 16.42.2 of the Development Plan, and the proposed alterations to the front and rear are acceptable in appearance.

7.5. **Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the proposed development, a change of use from retail to a residential unit, within a serviced area, and having regard to the separation 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 the conservation objectives of any European site.

7.6. Environmental Impact Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development, a change of use from retail to a residential unit, and having regard to the separation distance to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

- 8.1. Refuse permission.

9.0 Reasons and Considerations

Having regard to the substandard floor area of the proposed one-bed residential unit, combined with the front access that leads directly into the living area, and combined with the proximity of the proposed residential unit to the adjacent takeaway use, it is considered that the proposed development would result in sub-standard level of accommodation for future occupiers of the unit. The proposal, therefore, would be contrary to the proper planning and sustainable development of the area.

Rónán O'Connor
Planning Inspector

15th October 2018