



An
Bord
Pleanála

Inspector's Report ABP-302662-18

Development	Change of use from office to one bedroom apartment.
Location	36, Bowbridge House, Kilmainham, Dublin 8
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2460/18
Applicant(s)	Eric Feldman
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Eric Feldman.
Observer(s)	None
Date of Site Inspection	26/11/18
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The subject site is located within an established residential area and forms part of what was historically a manufacturing cluster in Kilmainham which has been redeveloped for largely residential purposes. The site is bounded by the Cammock River to the north and by existing development to the east, south and west.
- 1.2. The subject site consists of a ground floor commercial unit within the Bowbridge House apartment development which contains three floors of apartments above ground floor.
- 1.3. The site is accessed via a gated entrance directly adjacent to Bow Bridge and is visible from the public road. The unit is a single aspect property with existing windows within the northern elevation.
- 1.4. There is an existing car parking area and service yard which houses large refuse bins directly in front of the existing windows of the unit.
- 1.5. The entrance to the ground floor car park which serves the Bow Bridge development is located to the north east of the unit. This car park extends to the rear and to the north west of the subject site.
- 1.6. The main entrance to the apartment block abuts the subject site directly to the north west and leads to the main stairwell to the development which is situated to the rear of the unit.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Change of use from office to residential

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason:

- Having regard to the location of the proposed ground floor single aspect residential unit, which is located within a known Flood Zone, it is considered that the proposed development would not provide a satisfactory standard of

accommodation and could potentially be at risk from flooding. The Flood Risk Assessment (FRA) for the site indicates a number of Flood Resistance Measures in their report which includes a recommendation that 'ground floor windows should be non-opening and should be specified to have adequate water exclusion characteristics and should be capable of withstanding potential impact from flood debris'. Having non-opening windows in a ground floor single aspect unit is a poor standard of accommodation and would seriously injure the amenities of the future occupants of this flat and therefore would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's final report is consistent with the decision of the planning authority. Further information was sought prior to the final recommendation in relation to the following:

- The proposed residential development is single aspect, further information was requested with regard to how the applicant proposes to accommodate the unit without detriment to the amenities of the occupants.
- The location of car parking outside a bedroom window is considered to be unacceptable and would result in an absence of privacy for the occupants. The applicant was requested to submit revised plans and proposals to address this issue.
- Site appears to be in flood zone A, no flood risk assessment was submitted, the applicant was requested to submit one as part of the further information request.

3.2.2. Other Technical Reports

- Drainage Services - No objections subject to conditions.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

1047/97 permission was **Granted** for the following development:

Demolition of existing warehouse buildings and construction of new 3 storey extension consisting of toilets and stairs to existing office building and 21 no. 2 bed and 15 no. 1 bed apartments on 3 floors and 3 no. 1 bed apartments at roof level with roof garden all over ground floor carpark and enterprise unit.

0236/98 permission was **Granted** for modifications to existing permission (reg. ref. 1047/97) regarding unit sizes.

5.0 Policy Context

5.1. Development Plan

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

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

- Section 5.5.6 Apartment Living
- Policy QH18 – promotes provision of high quality apartments
- Section 16.10.1 Residential Quality Standards – Apartments
- Section 9.5.3 Flood Management
- Policy SI13 – restrictions on development of residential use in flood zones.

Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2018

Section 3.18 specific requirements for north facing apartments.

5.2. Natural Heritage Designations

None

6.0 The Appeal

6.1. Grounds of Appeal

- A flood risk assessment was submitted which Dublin City Council have no objection to, subject to the proposed measures being implemented. The proposal should therefore be implemented.
- A top opening window above the flood levels is proposed by the applicant's engineer, as part of the additional information submitted in relation to flood risk, to address the reason for refusal.

6.2. Planning Authority Response

None

6.3. Observations

None

7.0 Assessment

7.1. The subject site is located within zoning objective Z1, which seeks to *'protect, provide and improve residential amenities'*. It is considered that the proposed change of use is acceptable in principle with the zoning objective for the area.

7.2. I consider that the relevant issues in determining the current appeal before the Board relates to:

- a) Impact on residential amenity and,
- b) Flood risk.

Impact on Residential Amenity

- 7.3. The planning authority contends that the proposed development by virtue of providing for a single northern aspect non-opening window would result in a poor standard of accommodation which would seriously injure the amenities of the future occupants.
- 7.4. Section 3.18 of the Sustainable Urban Housing: Design Standards for New Apartments, states that 'north facing single aspect apartments may be considered, where overlooking a significant amenity such as a public park, garden or formal building.... particular care is needed where windows are located on lower floors that may be overshadowed by adjoining buildings'.
- 7.5. The proposed development overlooks an existing car park and service yard which accommodates large commercial refuse bins. It also faces onto the rear façade of a 3-storey hostel known as Cromwell's Quarter.
- 7.6. The proposed development by reason of the single northern aspect and the quality of the environment that it overlooks is considered to be contrary to both the provisions of Section 3.18 of the Apartment Guidelines and policy QH18 of the Dublin City Development Plan 2016-2022 which seeks to promote high quality apartments with appropriate levels of amenity for occupants.
- 7.7. The provision of top opening windows as proposed by the applicant's flood consultants in response to the planning authority refusal is not considered to be sufficient to address the serious deficit in residential amenity proposed for future occupants. The provision of top opening windows in a single aspect property would also raise concerns relating to the limited safe means of escape available to residents in the event of an emergency.
- 7.8. Overall the proposed change of use would result in accommodation with significantly restricted access to daylight and is not considered to provide for an acceptable quality of accommodation.

Flood Risk

- 7.9. The subject site is located within flood zone A as identified within the Dublin City Development Plan 2016-2022.

- 7.10. It is the policy of Dublin City Council as outlined above under policy SI13 to restrict housing within above ground buildings for *'residential use below the estimated flood levels for Zone A or Zone B.'*
- 7.11. The applicants have submitted a site-specific flood risk assessment in response to the further information request sought by Dublin City Council. This report identifies two sources of potential flood:
- a) Fluvial flood event in the Cammock River which is located 12m from the site and
 - b) Blockage/surcharge of the downstream bridge from the surrounding urban drainage network or from overland flows from elevated lands to the south of the site.
- 7.12. Flood levels from both sources are shown to affect the car parking area directly abutting the appeal site with pluvial flooding posing the highest potential risk at this location.
- 7.13. The SFRA submitted refers to Section 5.28 of the Planning System and Flood Risk Management Guidelines for Planning Authorities 2009, in which it is outlined that applications for minor developments in areas at risk of flood, such as that proposed, will not be required to comply with the Justification Test.
- 7.14. The proposed change of use however results in the introduction of a highly vulnerable use to a site located in flood zone A where a less vulnerable use exists. The application of Section 5.28 is therefore not considered to be applicable to this development.
- 7.15. Flood resistant measures proposed within the SFRA submitted include requirements such as the provision of a flood gate / sand bags, and as mentioned above, the provision of non-opening ground floor windows. Given the proposed residential use of the unit, the single aspect of the property and the limited storage proposed within it, it is considered that these proposals are not acceptable measures.
- 7.16. Having regard to the predicted flood levels and that these levels will affect lands directly abutting the appeal site and taking into account the highly vulnerable use proposed it is considered that the proposed development would be contrary to policy SI13 of the Dublin City Development Plan 2016-2022 as outlined above.

Appropriate Assessment

- 7.17. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any 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. I recommend that permission is refused for the following reasons:

9.0 Reasons and Considerations

1. The proposed change of use would provide for a residential unit with a single northern aspect window overlooking a car park and service area. This window due to its orientation and height would allow for limited daylight to enter the premises. The proposal by reason of its limited access to daylight, orientation and view would provide for a substandard and unacceptable form of residential accommodation which would have an unacceptable negative impact on the residential amenities of future occupants. The proposal would be contrary to the requirements of Section 3.18 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2018 and policy QH18 of the Dublin City Development Plan 2016-2022 which seeks 'To promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments.' The proposal would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development is located within Flood Zone A as identified within the Dublin City Development Plan 2016-2022. Policy SI13 of the Development Plan seeks to restrict the development of highly vulnerable uses such as residential in such areas. This objective is considered reasonable. It is considered that the Site-Specific Flood Risk Assessment submitted including restrictions on window openings would result in a poor standard of amenity for future residents and are not sufficient to overcome the restrictions on residential development in

areas at risk of flooding. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Sarah Lynch
Planning Inspector
28th November 2018