



An
Bord
Pleanála

Inspector's Report ABP.303793-19

Development	Change of use from office and public house to office and hostel.
Location	The Corner House, Dundrum Road, Farrenboley Park, Windy Arbour, Dublin 14.
Planning Authority	Dun Laoghaire-Rathdown County Council
Planning Authority Reg. Ref.	D18A/0894
Applicant(s)	Boley View Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Anne Carmody
Observer(s)	None
Date of Site Inspection	27 th June, 2019
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The appeal site is located on the corner of Dundrum Road and Farrenboley Park, Windy Arbour, Dublin 14.
- 1.2. There is an existing public house, 'The Corner House' on the appeal site. The public house is currently vacant.
- 1.3. The height of the public house is both 2-storey and 1 storey. Although the building on the appeal site is effectively a 3-storey building to the rear of the appeal site as there is a falling level on the site and the building has a split level.
- 1.4. There is a small river (which is a tributary of the River Dodder) and public park located to the rear of the appeal site.
- 1.5. On the opposite side of the Dundrum Road from the appeal site there is a small neighbourhood centre comprising of 2-storey take-away restaurants and a tyre centre.
- 1.6. There is residential property located to the immediate south of the appeal site and a credit union is located to the immediate south of this residential property.
- 1.7. Dundrum Road, near the appeal site, generally has a good mix of uses including residential, neighbourhood shop units, car sales and offices.

2.0 Proposed Development

- 2.1. The proposed development includes the following change of use;
 - From office and public house to office and hostel
 - From residential to hostel at first floor level
- 2.2. The proposed development will include internal alterations to facilitate provision of a communal kitchen and communal sitting room at lower ground floor level.
- 2.3. The proposed lower ground floor will also comprise of ancillary facilities such as storage, laundry and boiler storage area.
- 2.4. The proposed ground floor and first floor will comprise of bedrooms and a caretaker's accommodation on first floor level.
- 2.5. The proposal includes new signage to the front and side elevation (north facing).

3.0 Planning Authority Decision

- 3.1. Dun Laoghaire Rathdown County Council decided to **grant** planning permission subject to 7 no. conditions. The conditions are generally standard.

Condition no. 2 is as follows; *'The hostel hereby approved shall be used for tourist purposes only and on a short time basis, i.e. maximum length of stay shall be no longer than 1 month and shall not be used for the provision of homes or accommodation for persons in a care setting, as an institutional hostel or in social support for persons, of students without a prior grant of planning permission'*.

Reason: In the interest of clarifying the scope of this permission.

3.2. Planning Authority Reports

- 3.2.1. The main issues raised in the planner's report are as follows;

Area Planner

- A hostel is permitted in principle with the zoning objective.
- The proposed works will improve the residential amenity of the area.
- Additional information is required in relation the hostel floor areas and management of proposed hostel.
- Good public transport locally.
- The flood risk assessment is considered acceptable.

3.3. Internal Reports;

- Transportation Planning; - No objections subject to conditions.
- Drainage; - No objections.
- E.H.O. – Proposal is acceptable subject to conditions.

3.4. Third Party Observations

There are two third party submissions and the issues raised are broadly similar to the issues raised in the third-party appeal and summarised below. All the issues have been noted and considered.

4.0 Planning History

- L.A. Ref. D07A/1568 – **Split decision** issued for new external access staircase and door to rear to the existing first floor residential unit. Permission refused for access gate to rear onto public open space. The reason for refusal stated that the access is onto a public open space and this access would set a poor precedent. Permission granted for external access and door to rear of first floor residential unit and retention for 3 no. windows in the rear basement elevation. The decision was the subject for a first party appeal (appeal ref. 227644) v Condition no. 3. Condition no. 3 requires that the basement offices be used only as incidental to the use of the building as a public house and not for a separate trade or business. The Board directed the Local Authority to attach condition no. 3.
- L.A Ref. 07A/1012 – Retention permission was **refused** for conversion of first floor to 1 no. 2 bed apartment and 1 no. 1 bed apartment. The reason for refusal was (1) inadequate private open space provision, (2) insufficient legal interest, (3) the public notices are non compliant with Article 18(1) (d) of the Planning Regulations.
- L.A. Ref. D99A/0331 – Permission **granted** for alterations to the elevations of the existing licensed premises to provide new shopfront and access. A change of use at first floor level from a licensed premise to 1 no. 4 bed apartment at first floor level.

- L.A. Ref. 92A/1907 – Permission **granted** for retention of a first-floor lounge, staff restroom and toilets.

5.0 Policy Context

5.1. Development Plan

The operational Development Plan is the Dun Laoghaire-Rathdown County Development Plan, 2016 - 2022.

The appeal site is zoned Objective A 'To protect and or improve residential amenity'.

Section 8.3.12 sets out 'Definition of Use Classes' and hostel use is defined under 'Residential Institution'.

6.0 The Appeal

6.1. The following is the summary of a third-party appeal submitted by **Anne Carmody**;

- There is no commitment that the proposed development will adhere to the Failte Ireland Guidelines.
- Failte Ireland requires that there are a minimum of 20 beds. The proposed development has accommodation for 17 persons and a caretaker.
- It is submitted that Failte Ireland require a dining area to accommodate 20 persons.
- The proposed kitchen is only capable of accommodating a few persons rather than the 20 recommended.
- There is no information regarding security.
- The site notice is in place since September 2018. The applicant has been directed to remove the site notice since January 2019.
- It is submitted that many of the appellants objections to the Local Authority have not been addressed satisfactorily.

- The Board are requested to review the decision and the submission includes photographs.

7.0 **Second Party Response**

7.1. The following is a summary of a submission from the **Local Authority**;

- The applicant was requested to demonstrate how they would intend to comply with the Failte Ireland standards.
- The response stated that the hostel would have less than 20 guests, however all aspects of development would otherwise meet the standards.
- The Local Authority did not apply a condition requiring that the proposed development complied with Failte Ireland standards.

8.0 **First Party Response**

The following is a summary of a response submission submitted by the **applicants**;

Appeal Response

- The applicants concur with the Failte Ireland that the accommodation proposed is in compliance with Failte Ireland. This is acknowledged by condition no. 2.
- An assessment by MPBA Architects is included demonstrating how the proposed development meets standards of Failte Ireland.
- The standards are guidance only.
- The proposed accommodation will accommodate more than just tourists and a range of accommodation needs.
- It is submitted that to increase the number of bedrooms would compromise the overall quality.
- It is submitted that Emergency Housing Units in Dun Laoghaire Rathdown County Council and DOE acknowledge that en-suite facilities are greatly valued as proposed.

- Section 8 of the MPBA document states that all other aspects of the Failte Ireland guidelines are adhered to.
- The assertion that there is no dining area in the proposed development is incorrect.
- There is no minimum floor area requirement for the dining area within the guidelines.
- The proposed dining area allows for seating of 10 no. persons which is sufficient.
- Failte Ireland guidelines are not Section 28 Guidelines and as such are limited material consideration for planning applications.
- In terms of residential amenity the submitted Failte Ireland response addressed concerns in relation to management arrangements including night time arrangements and waste disposal.
- The following should also be considered;
 - As the pub will cease the night-time numbers will be less for hostel use.
 - The entrance is relocated away from the appellants property.
 - Former social events such as music will cease.
 - CCTV will be provided.
 - Anti-social activity from the pub will cease.
 - The appeal site is a busy location with high pedestrian flows.
- The site notice has no bearing on the planning merits.

Condition no. 2

- The appellant is accepting of the prohibition of hostel clients requiring institutional accommodation or where a degree of medical supervision is required.
- The appellant is not accepting of the prohibition of students from the proposed hostel in terms of impacts on residential amenity.

- Page 14 of the Planner's Report states that it was considered appropriate to restrict the primary use to tourism and short term stays only.
- The proposed use was reviewed and deemed acceptable by the Emergency Housing Units in Dun Laoghaire Rathdown County Council and DOE.
- It is not proposed to provide student accommodation per se but rather temporary accommodation.
- The proposed scheme complies with Part M of the Building Regulations.
- It is submitted that the use of the term 1-month is unnecessarily short.
- It is submitted that there are 6 no. tests for conditions as set out in the Section 28 Guidelines 'Guidelines for Planning Authorities', 2007.
- Condition no. 2 is recommended as follows.

'The hostel use hereby permitted shall only be used on a temporary basis and shall not be used for the provision of homes or accommodation for persons in a care setting, as an institutional hostel or in support of occupants, without the prior grant of permission'.

Emergency Accommodation

- It is submitted that the Emergency Housing Units in Dun Laoghaire Rathdown County Council are open to a more openly worded condition no. 2.
- There is a chronic shortage of emergency accommodation in Dublin and provision of emergency accommodation is supported by the number of homeless people in Ireland.
- There is limited emergency accommodation provision in Dun Laoghaire Rathdown County Council.

Compliance with Housing Objectives of County Development Plan

- The proposed development is consistent with the following County Development Plan policy objectives HS2 and HS3.

9.0 Assessment

The main issues for consideration are as follows;

- Principle of Development
- Impacts on Residential Amenity
- Compliance with Failte Ireland Standards
- Condition no. 2

9.1. Principle of Development

- 9.1.1. The appeal site is zoned 'Objective A' and the land-use objective for this zoning is '*to protect and improve residential amenity*'. In accordance with Table 8.3.2. of the County Development Plan residential is permitted in principle within this zoning objective.
- 9.1.2. The proposed development involves changing the use from public house and office to hostel and office. In relation to hostel I would note that Section 8.3.12 'Definition of Classes' of the County Development Plan defines residential institution as '*a building or part thereof or land uses as a residential institution and includes a monastery, convent, hostel, home for older persons / nursing homes*'.
- 9.1.3. Table 8.3.2 of the County Development Plan sets out a matrix of 'permitted' and 'open for consideration uses' and residential institution is a use permitted in principle within Zoning Objective A of the County Development Plan.
- 9.1.4. Table 8.3.2 refers to offices less than 200 sq. metres as 'open for consideration' within the Zoning Objective A.
- 9.1.5. The applicant clarifies in their additional information response submission that the proposal will not facilitate any individual or group requiring supervision or care. It is

also intended that the proposed hostel will not accommodate on-site permanent treatment. It is intended that the hostel would be used for short-term or temporary stay accommodation.

- 9.1.6. In general, the principle of the proposed use on the appeal site, having regard to the zoning objective, is acceptable. However in order to consider the proposed development favourably issues in relation impacts on established amenities would need to be addressed.

9.2. **Impacts on Residential Amenities**

- 9.2.1. The appellant's property is located to the immediate south of the appeal site. The existing use on the appeal site is a public house, including office at lower ground floor, and an independent residential unit at first floor level.
- 9.2.2. In terms of considering impacts on residential amenities I would consider that in general the introduction a residential use, in this case, is more compatible with adjacent residential amenities than a public house.
- 9.2.3. The main entrance to the public house is onto Dundrum Road in close proximity to the residential property located to the south of the appeal site. The submitted drawings indicate that the main pedestrian entrance to the proposed hostel / office use will be off Farrenboley Park. Therefore, this will lessen the impact on the established residential amenities situated to the immediate south of the appeal site.
- 9.2.4. The proposed hostel use includes the provision of a caretaker's accommodation as such there will be a full-time manager on the premises and this will have a positive impact on security. Section 4 of the response to the additional information request sets out measures to reduce impacts on residential amenities.

9.2.5. I would consider that the proposed use would lessen the impacts on the established residential amenities locally than the use of a public house. The scale of the proposed hostel is also a relevant consideration. In relative terms the overall scale of the proposed hostel is not significant.

9.3. **Compliance with Failte Ireland Standards**

9.3.1. I would acknowledge the argument in the appeal submission that the proposed development would fail to comply with the Failte Ireland standards for hostels. The standards for hostels are a guidance document however it is important to note that they are not a Section 28 guideline document as set out in the planning act. As such planning assessments are not required to have regard to them in the same way as ministerial guidelines.

9.3.2. The Failte Ireland standards recommend a minimum of 20 no. bedrooms whereas the proposed development provides 17 no. bedrooms. The proposed dining space provided would exceed the minimum required space as set out in the Failte Ireland guidelines. The proposed floor to ceiling heights would be compatible with the floor to ceiling heights recommended in the Failte Ireland standards. I would note that some of the guidance relates to furniture and finishes which is not necessarily a planning issue. The Failte Ireland guidance also requires fire safety compliance which would be required under a separate code from planning, i.e. the building regulations.

9.3.3. Overall, I would conclude that the proposed hostel use would not be required to statutorily comply with the Failte Ireland guidelines in the planning process. Nonetheless the proposed hostel use would generally comply with the standards as set out in the Failte Ireland guidelines.

9.4. **Condition no. 2**

9.4.1. It is notable that condition no. 2 was not appealed by any party. The applicant has included an objection to condition no. 2 in their response submission. The applicant

considers that condition no. 2 is too restrictive and excludes students from the proposed hostel use. The Local Authority condition stipulates that the hostel can only be used for tourist accommodation only for short-term stays and the maximum length of stay shall be 1-month.

9.4.2. Having reviewed the arguments submitted by the applicant and the basis of the Local Authority condition I would consider that there is merit to the Local Authority condition. I would consider that any longer than a 1-month stay then the proposed use would be used for long and medium term stays such as college terms or families while waiting on housing provision. Although I would have no issue with students or families within the proposed hostel site the issue that would arise is the proposed amenities, in terms of private open space provision and general amenities, would not be a suitable standard to serve a medium to long term resident.

9.4.3. I would generally concur with the Local Authority condition no. 2 as this condition controls the use relative the proposed amenities and therefore I would recommend condition no. 2 to the Board, should they favour granting permission. However, the Board may wish not to consider issuing a direction in relation to condition no. 2 as it was not appealed to the Board.

10.0 Recommendation

10.1. I have read the submissions on the file, visited the site, had due regard to the Local Area Plan, and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

REASONS AND CONSIDERATIONS

Having regard to 'Objective A' zoning of the subject site, the pattern of development in the area, the established use on the site and the scale and design of the proposed development, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area and of

the property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 21st day of December 2018, 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 hostel use hereby approved shall be used for tourist purposes only and on a short term basis, i.e. maximum length of stay shall be no longer than 1 month and shall not be used for the provision of homes or accommodation for persons in a care setting, as an institutional hostel or in social support of persons, or for students without a prior grant of planning permission.

Reason: In the interest of clarifying the scope of the permission

3. All external lighting and externally visible advertising signs, symbols and nameplates shall be submitted for the written agreement to the planning authority prior to the commencement of development.

Reason: In the interest of visual amenities.

4. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

5. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

6. The requirements of the Environment Health Authority shall be ascertained and adhered to in the development.

Reason: In the interest of public health.

7. Prior to the commencement of development a scheme shall be submitted to, and approved in writing by the Planning Authority for the effective control of fumes and odours from the premises.

Reason: In the interests of the amenities of both the immediate neighbours and general surroundings.

8. The construction of the development shall be managed in accordance with a Construction Management Plan which shall be submitted to, and agreed in

writing with the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of amenities and public safety.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting 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 Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Kenneth Moloney
Planning Inspector
28th June 2019