



An
Bord
Pleanála

Inspector's Report

ABP-304088-19

Development	Change of use of first, second and third floor levels from office to 3 no. apartments.
Location	67/68 Catherine Street, Limerick.
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	18/1140
Applicant(s)	Quigley Property Limited.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party V. Grant
Appellant(s)	Padraic Frawley
Observer(s)	None
Date of Site Inspection	21 st June 2019
Inspector	Elaine Power

1.0 Site Location and Description

The subject site is located on the western side of Catherine Street in Limerick City Centre. Catherine Street comprises a variety of building types and styles and accommodates a range of commercial and retail uses at ground floor level.

The subject site comprises a double plot. The building is mid-terrace and 4-storey in height, over a part basement level. The ground floor level currently accommodates a café with office use at second floor level. The first and third floor levels are vacant.

2.0 Proposed Development

2.1. It is proposed to change the use of the first, second and third floor levels of an existing building from office use to 3 no. apartments. It is proposed to provide 1 no. residential unit per floor. Each apartment has a gross floor area of 102sqm and 3 no. bedrooms. Access is provided from Catherine Street via a new solid timber door with a side screen.

2.2. *Further Information lodged 15th February 2019*

In response to the further information request revised floor plan layouts, details of the proposed windows and an asbestos refurbishment / demolition survey were submitted.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 10 no. conditions. The relevant conditions are noted below: -

Condition 3 related to the window details

Condition 4 related to bin storage.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The initial Area Planners Report and Senior Executive Planners Report recommended that further information be sought regarding the following:

- Compliance with Design Guidance for Apartments (2018) issues by the Department for Housing, Planning and Local Government.
- Details of the proposed windows
- A Refurbishment Demolition Asbestos Survey

The final Area Planners report considered that all concerns had been addressed and recommended that permission be granted.

3.2.2. **Other Technical Reports**

Environmental Services recommended that further information be sought regarding an asbestos survey. Conditions were also recommended.

Fire Officer no objection, subject to compliance with Building Regulations.

3.3. **Prescribed Bodies**

Irish Water No Objection

3.4. **Third Party Observations**

A third-party submission was received from Padraic Frawley, who operates a business from the second floor of the building. The concerns raised are similar to those in the third-party appeal.

4.0 **Planning History**

None

5.0 **Policy Context**

5.1. **Limerick City Development Plan, 2010-2016 (as extended)**

The subject site is located within the 'city centre retail area' with the associated zoning objective ZO.1(A) – for the protection, upgrading and expansion of higher order retailing. Residential uses are open for consideration.

Policy H3, Policy H5 and Chapter 16 – Development Management are considered relevant.

5.2. National Guidance

- National Planning Framework (2018)
- Design Standards for New Apartments - Guidelines for Planning Authorities (March 2018)

5.3. Natural Heritage Designations

The site is located approx. 320m west of Lower River Shannon SAC (002165) and approx. 520m north west of the River Shannon and River Fergus Estuaries SPA (site code 004077).

5.4. EIA Screening

- 5.4.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third-party appeal was submitted from Padraic Frawley, who operates a business from the second floor of the building. The concerns raised in the appeal are summarised below.
- The proposed development would negatively impact on the existing business located on the second floor.
 - The noise from the residential units would negatively impact on the existing office use.

6.2. **Applicant Response**

The Applicant has requested that the Board dismiss the appeal as there are no valid planning issues raised. It is also noted that the appellants lease expired in 2013 and he has been issued with a notice of termination of tenancy. A copy of the lease was submitted.

6.3. **Planning Authority Response**

None

7.0 **Assessment**

7.1. The main concern raised in the appeal relates to the impact the change of use would have on the appellants existing business located on the second floor of the existing building. I consider that the disputes between the parties in relation to matters of tenancy are ultimately matters that would be dealt with more appropriately outside of the planning appeal process and it should be noted that under section 34(13) of the Planning and Development Act 2000, as amended, a person shall not be entitled solely by reason of a permission to carry out any development.

7.2. The main planning issue in this appeal relates to noise disturbance from the residential use on existing businesses. Design and Layout and Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise.

7.3. **Noise**

Concerns were raised in the appeal regarding the potential noise disturbance generated by the proposed use on the existing businesses. Having regard to the location of the development in the city centre and the nature of the proposed use. It is my view that the proposed residential use would not result in an unacceptable level of noise disturbance for adjoining uses.

7.4. **Design and Layout**

7.4.1. The proposed development comprises the conversion of 3 no. existing floors of office use to 3 no. apartments. The revised floor plans, submitted by way of further information, ensure that the apartment layouts reach and exceed the minimum

standards for room sizes and dimensions as set out in Design Standards for New Apartments - Guidelines for Planning Authorities (March 2018). However, there is no provision for private open space. The development plan requires the provision of a minimum of 5-10sqm per apartment in the city centre locations. It is noted that the issue of private or communal open space was not raised by the Planning Authority.

7.4.2. The Design Standards for New Apartments - Guidelines for Planning Authorities (March 2018) note that some flexibility is permissible in relation to 'over the shop' type buildings, where the development must be accommodated within the fabric of the existing structure.

7.4.3. In my view, having regard to the overall size and layout of the apartments and the city centre location, it is appropriate this instance to relax the requirement for open space.

7.4.4. It is noted that all existing windows are to be replaced with new triple glazed powder coated aluminium. A grey colour is proposed for the new windows and existing spandrel panels. It is also proposed to replace the existing access door onto Catherine Street with solid timber door with side screen. In my view the proposed windows and door would enhance the visual amenities of the street.

7.4.5. No information has been submitted regarding communal bin storage. The Planning Authority attached a condition regarding the provision of bin storage. It is recommended that a similar condition be attached to any grant of permission.

7.5. ***Appropriate Assessment***

8.0 Having regard to the nature and small scale of the proposed development and the distance from 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.

9.0 **Recommendation**

It is recommended that permission be granted subject to conditions.

10.0 Reasons and Considerations

Having regard to the city centre location, the zoning objective of the site and the small scale of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 15th day of February 2019 by way of further information, 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. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

3. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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 amenities of property in the vicinity.

5. 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 commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

6. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

7. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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

Elaine Power
Planning Inspector

26th June 2019