



An
Bord
Pleanála

Inspector's Report

ABP-304759-19

Development	Change of use of existing ground floor vacant commercial unit to a residential studio apartment unit.
Location	3 Lanesville Grove, Monkstown Farm, Monkstown, Co Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D19A/0239
Applicant(s)	Stephen Rooney
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Stephen Rooney
Observer(s)	None
Date of Site Inspection	11 th October 2019
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.02103 ha is located c 1.4km southwest of Dun Laoghaire town centre on the western corner of the intersection of the Monkstown Farm and Lanesville Grove roads. The site is located in an area of mature residential development and apartments with scattered low-quality commercial units comprising of a casino and a tyre garage in the immediate area. The site was formerly the location of the Farmhouse Inn, a pub and off license, prior to the re-development of the site to provide a three storey building comprised of a commercial unit at ground level and residential use on upper floors.
- 1.2. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail

2.0 Proposed Development

- 2.1. Permission is sought for the change of use of existing ground floor vacant commercial unit (55 sqm) to a residential studio apartment unit. The proposed change of use includes the following works:
- 1) Alterations to the fenestration treatment to front, side and rear elevations at ground floor including relocating the existing front door entrance
 - 2) Provision of private amenity space for the proposed studio apartment in the existing rear garden of No 3 Lanesville Grove
 - 3) Alterations to the existing stairs serving the current two-bed unit on the first and second floor at No 3 Lanesville Grove
 - 4) Alterations to the internal layout of the ground floor of No 3 Lanesville Grove to accommodate the provision of the studio apartment and all necessary ancillary works to facilitate the development
- 2.2. It is stated in the application form that there are 2 no existing car parking spaces for all of No 3 Lanesville Grove including ground floor.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. DLRCC issued a notification of decision to refuse permission for the following reason:

Having regard to the “NC” zoning objective at this site and to Policy RET9 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 it is considered that the proposed change of use of the ground floor of the subject premises from commercial use to residential use, would represent an inappropriate use at ground floor level, would be injurious to the vibrancy of the Neighbourhood Centre facilities. The proposed development would contravene materially a development objective indicated in the County Development Plan for the zoning of land for the use solely or primarily of particular areas for particular purposes and would therefore be contrary to the proposed planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** having considered the scheme recommended that permission be refused for one reason. The notification of decision to refuse permission issued by DLRCC reflects this recommendation.

3.2.2. Other Technical Reports

- **Transportation** – Requested further information in relation to provision of bollards, low front boundary treatment to inhibit any vehicle parking at the front of the proposed studio apartment and the provision of one no cycle stand.
- **Drainage Planning** – No objection subject to conditions relating to surface water and hardstanding areas.

3.3. Prescribed Bodies

- 3.3.1. There are no reports from any prescribed bodies recorded on the planning file.

3.4. Third Party Observations

3.4.1. There are no observations recorded on the planning file.

4.0 Planning History

4.1. There is no evidence of any previous planning appeal at this site. The following planning history has been submitted with the appeal file as summarised:

Reg Ref D15A/0311 – In 2015 DLRCC granted permission subject to 18 generally standard conditions for the demolition of an existing public house / off license / outbuildings and development of two no two storey dwellings and one no three story building with ground floor 50sqm commercial unit (Class 2 Use) with one no duplex dwelling above, 2 no two storey dwellings with roof lights to all units, new boundary walls and 5 no separate vehicular entrances off Monkstown Farm and Bale Ui Liachain.

4.2. There was an appeal site opposite this appeal site on the corner of Monkstown Farm and Lanesville Terrace that can be summarised as follows:

ABP-300674-18 (Reg Ref D17A/0926) – DLRCC refused planning permission for the demolition of the existing single storey commercial building and the construction of a three storey contemporary style building comprising: 2 no. two-bedroom three-storey town houses each with; (i) ground floor work/live unit (30sq.m - Class 2 use); (ii) terrace areas at roof level to facilitate private garden space and; (iii) rooflights at 12/13, Monkstown Farm, Dun Laoghaire, Co. Dublin for three reasons relating to car parking, traffic safety, precedent and overdevelopment of the site. The Board refused planning permission for the following 2 reasons:

- 1) It is considered that the proposed layout and design of the proposed development would produce a substandard form of development on this site. The development would be incongruous in terms of its design, scale and height and visually disruptive and discordant, would be out of character with the streetscape, would have an overbearing impact on the dwellings in the vicinity and would, therefore, seriously injure the*

amenities of the area and be contrary to the proper planning and sustainable development of the area.

2) *It is the Policy of the Planning Authority as set out in the County Development Plan 2016-2022 that residential development is provided with adequate private open space in the interest of residential amenity. The proposed development is deficient in the quantum, location and quality of private open space. The proposed development would, therefore, not be in accordance with the Development Plan Section 8.2.8.4 (i) Private Open Space Quality, and would seriously injure the residential amenity of future residents and the amenities of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.*

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative Development Plan is the **Dun Laoghaire Rathdown County Development Plan 2016-2022**. The site is zoned **Objective NC** where the objective is *to protect, provide for and / or improve mixed-use neighbourhood centre facilities*. Residential use is permitted in principle. Policies relevant to this appeal are as follows:

Policy Res 3: Residential Density

It is Council policy to promote higher residential densities provided that proposals ensure a balance between the reasonable protection of existing residential amenities and the established character of areas, with the need to provide for sustainable residential development.

Policy Res 4: Existing Housing Stock and Densification

It is Council policy to improve and conserve housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.

Policy RET 6: Neighbourhood Centres

It is Council policy to encourage the provision of an appropriate mix, range and type of uses including retail and retail services in areas zoned Objective 'NC' subject to the protection of the residential amenities of the surrounding area.

Policy RET 9: Non Retail Uses

It is Council policy to control the provision of non-retail uses at ground floor level in the principal shopping street of Major Town Centres and District Centres and also within the shopping parades of Mixed-Use Neighbourhood Centres.

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site. The nearest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC located c. 1 km to the north of the sit

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The first party appeal has been prepared and submitted by Hughes Planning & Development Consultants on behalf of the applicant Stephen Rooney against the decision of DLRCC to refuse permission and may be summarised as follows:
- The proposed development is consistent with the zoning objectives of the Dun Laoghaire Rathdown County Council Development Plan 2016-2022, does not have an adverse impact on residential amenity and Neighbourhood

Centre and would result in the proper planning and sustainable development of the area.

- The proposed development is consistent with Project 2040: National Planning Framework where the target is for at least 40% of all new and / or brownfield sites (Objective 35).
- This development is compliant with the objectives of the Urban Development and Building Heights – Guidelines for Planning Authorities (December 2018) which states that *there is significant scope to accommodate anticipated population growth and development needs, whether for housing, employment or other purposes by building up and consolidating the development of our existing urban areas.*
- The proposed development meets all relevant planning and development standards set out by Dun Laoghaire Rathdown County Council in terms of internal accommodation standards, private open space, access and car parking. In addition to this, the development also meets general qualitative tests in that the architect has prepared a design which is not harmful to the appearance and character of the area and which ensures no negative impacts arising from overlooking or overshadowing.

6.2. The appeal was accompanied by inter alia the following:

- Copy of the notification of decision to refuse permission
- Letter from Sherry Fitzgerald outlining the lack of marketing interest in the commercial unit. The letter states that the unit was for sale from 5th March 2018 to the 2nd August 2018 during which time *there was very little interest in this unit and no offers were made.*
- Letter from Janet Carroll outlining the lack of marketing interest in the commercial unit and the current marketing trends in the area. It is noted from the letter that the offering is described as a “work to live unit”. It is further stated that *the vendors are only interested in selling as a complete package, two houses, duplex and the ground floor apartment (if they get planning for conversion).*

6.3. **Planning Authority Response**

- 6.3.1. DLRCC refers to the previous Planners Report and states that *the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.*

6.4. **Observations**

- 6.4.1. There are no observations recorded on the appeal file.

7.0 **Assessment**

Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Traffic Safety
- Other Issues

8.0 **Principle**

- 8.1. Permission is sought for the change of use of an existing ground floor vacant commercial unit (55 sqm) (permitted Class 2 Use (financial, professional and other services where services are provided principally to visiting members of the public) under Reg Ref D15A/0311) to a residential studio apartment unit.
- 8.2. DLRCC issued notification of decision to refuse permission as the proposed change of use to residential would represent an inappropriate use at ground floor level, would be injurious to the vibrancy of the Neighbourhood Centre facilities and would contravene materially a development objective indicated in the County Development Plan. While it is not stated specifically which “objective” is being referred to it can be inferred, upon reading the full reason for refusal (Section 3.1 above refers) that it is referring to zoning objective “NC” (neighbourhood centre) and Policy RET9.

- 8.3. The operative Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned Objective NC where the objective is *to protect, provide for and / or improve mixed-use neighbourhood centre facilities*. Under this zoning objective, residential use is permitted in principle.
- 8.4. Under Policy RET9 “Non-Retail Uses”, it is Council policy *to control the provision of non-retail uses at ground floor level in the principal shopping streets of Major Town Centres and District Centres and also within the shopping parades of mixed-use Neighbourhood Centres*. As set out by the Case Planner this policy is necessary in order to protect the retail vitality and to maintain the visual character of streets which could be adversely affected by the impact of “dead frontages”. As further stated, the aim is to ensure neighbourhood centres contain a range of community, recreational and retail facilities including medical / dental surgeries and childcare facilities at a scale to cater for the existing residents and that same is conveniently located and easily accessible for the local catchment population.
- 8.5. The designated neighbourhood centre zoning extends along the Monkstown Farm Road where there are a number of residential developments with no commercial ground floor use. As observed on day of site inspection and as documented in the appeal the main neighbourhood centre area is clustered further south east of the site and contains a large Centra, Pharmacy, Doctors Surgery, hairdresser and two take away fast food restaurants. However, the area directly surrounding the appeal site is scattered with commercial units comprising of a casino / snooker club and a tyre garage (site photos refer).
- 8.6. Having regard to the sites location, removed from the main element of the neighbourhood centre, the lack of take up in occupancy as documented by the applicant together with the nature and scale of adjoining commercial uses I do not consider that the loss of this small Class 2 commercial unit would undermine the wider Neighbourhood Centre zoning objectives for the area, particularly where residential use is permitted in principle under this zoning objective.
- 8.7. With regard to the proposed residential unit I am satisfied that it meets all relevant planning and development standards set out by Dun Laoghaire Rathdown County Council in terms of internal accommodation standards, private open space, access and car parking. In addition, the amended elevational treatment including relocating

the existing front door entrance, necessary for residential accommodation, will have no negative impact on the appearance and character of the overall building or the wider streetscape.

- 8.8. Overall I am satisfied that the proposed change of use accords with the zoning objectives and planning policies for the area as set out in the County Development Plan 2016-2022, does not have an adverse impact on residential amenity and Neighbourhood Centre and would be consistent with the proper planning and sustainable development of the area and that to permit same would not contravene materially the County Development Plan.

9.0 Traffic Safety

- 9.1. I note the recommendation of DLRCC Transportation Section whereby further information was requested in relation to provision of bollards, low front boundary treatment to inhibit any vehicle parking at the front of the proposed studio apartment and the provision of one no cycle stand. While I am satisfied that the proposed change of use will generate less trips and that 1no car parking space at the rear of No 3 Lanesville Grove can be used to accommodate the parking requirements for this change of use I share the concerns raised by the Transportation Section regarding the open space to the front of the scheme where any vehicles parking at this location would obstruct pedestrians and create an undesirable / unsafe point of conflict. Accordingly, it is recommended that should the Board be minded to grant permission that the following condition be attached:

Prior to commencement of work on site the applicant shall submit the following for written agreement with the Planning Authority:

- a) Proposed measures (bollards, low front boundary treatment) to inhibit any vehicle parking at the front of the proposed studio apartment
- b) Provision of one no cycle stand

Reason: In the interest of traffic safety and sustainable development

10.0 Other Issues

- 10.1. **Appropriate Assessment** - Having regard to the nature and scale of the proposed development comprising the change of use of existing ground floor vacant commercial unit to a residential studio apartment unit and its 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 a European site.
- 10.2. **Development Contributions** – Dun-laoghaire Rathdown County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 14th December 2015. I refer to Section 10(h) Exemptions and Reductions where it states that *a change of use of an existing premises including “Living Over the Shop”*. *For clarification purposes any additional floor area will be levied at the appropriate rate*. I am satisfied that the proposed change of use falls under the exemptions listed in Section 10(h) in the scheme and it is therefore recommended that no payment of a Section 48 Development Contribution is required.

11.0 Recommendation

- 11.1. It is recommended that permission be **granted** subject to the reasons and considerations set out below.

12.0 Reasons and Considerations

- 12.1. Having regard to the site’s location on serviced urban lands and the policy and objective provisions in the Dun Laoghaire Rathdown County Development Plan 2016-2022 in respect of residential development, the nature, scale and design of the proposed development, to the pattern of existing and permitted development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. Prior to commencement of work on site the applicant shall submit the following for written agreement with the Planning Authority:
 - c) Proposed measures (bollards, low front boundary treatment) to inhibit any vehicle parking at the front of the proposed studio apartment
 - d) Provision of one no cycle stand

Reason: In the interest of traffic safety and sustainable development

3. Details of the materials, colours and textures of the proposed fenestration treatment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Water supply and drainage arrangements, including the attenuation and 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.

5. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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 residential amenities of adjoining property in the vicinity

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

Mary Crowley

Senior Planning Inspector

18th October 2019