



An
Bord
Pleanála

Inspector's Report

ABP-305081-19

Development	Change of use from light industrial to residential.
Location	1A, Ormond Road, Rathmines, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3043/19
Applicant(s)	Patrick Garvey.
Type of Application	Permission .
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Patrick Garvey.
Observer(s)	None.
Date of Site Inspection	25 th October 2019
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1 The appeal site has a stated area of 133m² and is located to the rear of No 1 Ormond Road South in Rathmines. The site is located at the junction of two rear laneways and would have formed part of the rear garden of the end of terrace, two storey house which is a protected structure. The site is occupied by a shall pitched A frame shed structure 107.7m². The structure has a large roller shutter door and a pedestrian doorway on the front (western) elevation. It is stated that the structure is in use as an industrial warehouse. The structure is block built with concrete render and has a trussed roof finishes with profiled metal sheeting and alternative panels of rooflights. An electricity pole is located adjacent to the northern side elevation which is unrelieved in terms of fenestration. I note that on the date of inspection the shed did not appear to be in active use.
- 1.2 The site is within an area characterised by substantial Victorian detached and semi-detached dwellings, many of which are protected structures including the adjoining 1 Ormond Road South and 3 Ormond Road South.

2.0 Proposed Development

- 2.1 The application as set out involves permission for change of use of the existing structure from light industrial to residential including minor works to the existing building and all associated works. The application is accompanied by a report by David Slattery, Architect and Historic Building Consultant which sets out the detail of the proposal. The report notes that the site adjoins no 1 Ormond Road South but asserts that it is not within the curtilage of the protected structure.
- 2.2 The proposal provides for a one bedroom dwelling with private open space provided by way of a winter garden to the existing building of 50 sq.m. Minor interventions are proposed to the existing structure including provision for metal railing gates and rooflights are to be removed from the proposed winter garden area to allow air and additional light ingress to winter garden area.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 12 July 2019 Dublin City Council issued notification of its decision to refuse permission for the following reason

“Having regard to the location of the subject site on a narrow laneway, which is substandard in width, and the proposed non-provision of off-street parking it is considered that the proposed development would be contrary to Section 16.10.16 of the Dublin City Development Plan 2016-2022 with respect to mews dwellings and would therefore be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 Notes that the proposed use as a residential dwelling would be more appropriate than the established light industrial use and proposal would be considered a mews dwelling, however the laneway does not comply with Section 16.10.16 (i) as it is 3.18m wide. Refusal was recommended.

3.2.2. Other Technical Reports

3.2.2.1 Transportation Department Report recommends refusal on grounds of inadequate width of laneway and non-provision of on-site car parking.

3.2.2.2 Engineering Department Drainage Division – no objection subject to standard conditions.

3.3. Prescribed Bodies

3.3.1 No submissions

3.4. Third Party Observations

3.4.1 Third party submission from Cian Clancy, 3 Ormond Road South objects to the proposal as structure is built on party boundary with inadequate foundations. Insufficient access for fire tender.

4.0 Planning History

Appeal Site 29SRL2996. 0028/12 Works to upgrade and existing roof and rooflights over shed. Declared exempted development. I note that the reporting Inspector and the Board in its determination of this case concluded that the structure is not within the curtilage of the protected structure given the historical separation between the properties. I also noted the conclusion that there is no evidence of a planning permission for the structure or its use. (Copy of Board Order Attached)

0203/11 Works to an existing roof and rooflight over shed declared to be not exempted development. I note that documentation submitted during the course of this application suggested that the structure was extended by around 50% or rebuilt subsequent to 1968, and as such does not have pre 1964 status.

No 25 Ormond Road South. 2031/18 Permission refused for conversion and extension of an existing single storey detached store to the rear of No 25. Ormond Road South to form a separate living unit with private open space and shared access from the rear laneway.

5.0 Policy Context

5.1. Development Plan

5.1.1 The Dublin City Development Plan 2016-2022 refers. The site is zoned Z2 Residential Neighbourhoods (Conservation Areas). The objective “to protect and/or improve the amenities of residential conservation areas.”

5.1.2 Section 16.10.16 sets out the provisions for mews dwellings includes

“(i) Potential mews laneways must have a minimum carriageway of 4.8m in width (5.5m where no verges or footpaths are provided) All mews lanes will be considered to be shared surfaces and footpaths need not necessarily be provided.”

5.2. **Natural Heritage Designations**

5.2.1 None

5.3. **EIA Screening**

5.3.1 Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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 therefore required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The appeal is submitted by Brock McClure, Planning Consultants on behalf of the first party. Grounds of appeal set out the case for the proposed change of use and promotes a relaxation of planning standards asserting that the case presents a unique circumstance. Grounds of appeal are summarised as follows:

- Proposal will result in a significant reduction in vehicular movements and will result in a significant improvement to residential amenity.
- 2031/17 is not comparable given that it relates to a shed within the curtilage of a protected structure.
- Site presents a unique situation where there are clear benefits in terms of removing the existing use and existing traffic hazard.
- Existing industrial use is no longer viable at this location and the proposed use will result in sustainable use preventing the site from becoming underutilised or derelict. The existing building as an industrial warehouse generates a high volume of traffic movements along this mews laneway and Ormond Road on a continuous basis in the form of large vans and staff movements. The existing roller shutter facilitates delivery for large delivery vans to and from the loading area.
- The proposal represents an adaptive reuse of a brownfield site within an urban area with excellent links to high frequency public transport
- Provisions of Section 16.10.10 of the Development Plan provides “in certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict or under-utilised land in the inner and outer city is developed.”
- Proposal is unique and case for relaxation of parking standard is compelling.

6.2. Planning Authority Response

6.2.1 The Planning Authority did not respond to the grounds of appeal.

7.0 Assessment

7.1 Having examined the file, considered the prevailing local and national policies, inspected the site, I consider that the main issues, arising in this first party appeal which will form the basis of my assessment, can be addressed under the following broad headings

- Principle of Change of use.
- Case for relaxation of Development Plan standards.
- Appropriate Assessment

7.2 Principle of Change of Use

7.2.1 The proposal is clearly in accordance with the general policy desirability to increase densities within serviced urban areas in the interest of efficient land use resources and economies of scale. As set out within the grounds of appeal the existing structure on site is not viable for industrial warehouse use and the use for residential purposes would be more in keeping with the zoning objective Z2 which seeks “to protect and or improve the amenities of residential conservation areas.” I note that the Planning Authority considered this to be a reasonable case.

7.2.2 The proposal involves minimal interventions in terms of the structure and no therefore no significant issues arise in relation to impacts on established residential amenity. I note the submission of the third-party observer to the council which raises concerns with regard to the quality of the building on the site however given its low-rise nature any structural defects could be appropriately addressed in accordance with standard good construction practice. As regards emergency access for fire tender as set out in report of roads department fire service pump appliance could be provided within 45m of the principal entrance. I also note the merits of the innovative

approach in terms of proposed sustainable reuse of the existing structure in terms of sustainability goals. Thus, in the context of the principle of the proposed change of use there is some degree of support for the nature of development proposed.

7.3 Case for Relaxation of Development Plan Standards.

7.3.1 The reason for refusal relates to the inadequate width of the lane serving the site. It is a requirement of the Dublin City Development Plan 2016-2022 (16.10.16) that laneways be a minimum width of 4.8m and 5.5m where no footpaths or verges are provided. To the front of the site, the laneway is 3.2m wide therefore falls well short of this requirement and the lane is flanked by high walls. Whilst the first party asserts that the current structure generates a high volume of traffic movements by vans and staff on a daily basis, evidence of this is not provided. Furthermore, as outlined in the assessment and determination of the previous referral cases on the appeal site 29SRL2996 0028/12 and 0203/11) there is no evidence of a planning permission for the structure or its use on the site and therefore the legal status of the structure and its use on the site is uncertain.

7.3.2 Whilst the first party argues that vehicular access can be discounted the proposed use as a residential dwelling has the potential in my view to give rise to a not insignificant level of vehicular traffic generation to and from the site and notwithstanding the accessibility of the location in terms of proximity to high quality public transport services. In light of this and having regard to the uncertainty with regard to the existing use and legal status of the structure and use I consider that the case for relaxation of development plan standards has not been not proven and a grant of permission would potentially set an undesirable precedent. On this basis I consider that refusal is warranted.

7.4 Appropriate Assessment

7.4.1 Having regard to the scale and nature of the proposed development and to the serviced location, no Appropriate Assessment issues arise. The proposed

development would not be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

7.5 CONCLUSION AND RECOMMENDATION

7.5.1 Having regard to the above assessment I conclude that having regard to the restricted access to the site and the lack of evidence of a planning permission for the structure and its use the proposed development would not meet the standards as set out in the Dublin City Development Plan 2016-2022, would set an undesirable precedent for similar such development and would endanger public safety by reason of traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area. I recommend that permission be refused for the reason set out below.

8.0 REASONS AND CONSIDERATIONS

The lane which is to serve as a vehicular access to the site, is substandard in terms of width and alignment and, as such, would contravene the provision of the Dublin City Development Plan 2016-2022 in relation to mews laneways, which provision is considered to be reasonable. The proposed development by itself and the precedent, which a grant of planning permission would set for other relevant development, would endanger public safety by reason of traffic hazard and obstruction of road users and would therefore be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector

11th November 2019