



An
Bord
Pleanála

Inspector's Report

ABP-306608-20

Development	Change of use of first floors in No. 43 and No. 44 to 3 no. two bedroom apartments and 1 no. one bedroom apartment
Location	Nos. 43 & 44, Tower Road, Clondalkin, Dublin 22
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD19A/0225
Applicant	ADA Properties Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal of Permission
Appellant	ADA Properties Ltd.
Observer(s)	None
Date of Site Inspection	07.05.2020
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is located in Clondalkin village centre in west Dublin.
- 1.2. Nos. 43 and 44 comprise the two units at the northern end of a line of commercial units. There is a car park to the front, with an access/egress off Convent Road and an exit-only onto Tower Road. No. 43 is the end of terrace unit and is currently unoccupied. The ground floor of No. 44 is occupied by 'The Roma Take Away'. An AIB branch is adjacent to the south of No. 44 with other occupants of the commercial area including a newsagent and a coffee shop. There is vehicular access to side of No. 43 permitting access to the rear of the commercial units.

2.0 Proposed Development

- 2.1. The application is for permission for:
 - Change of use of the first floors from offices (No. 43) and restaurant (No. 44) to 3 no. two-bedroom apartments and 1 no. one-bedroom apartment.
 - Interconnecting doorway between both ground floor units.
 - New stone-clad shopfront with aluminium glazing system and signage.
- 2.2. Further information was submitted in relation to, inter alia, the proposed private open space areas, the ventilation system serving the ground floor take-away and a revised shopfront design and signage detail.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to refuse permission for one reason as follows:
 1. The proposed development by reason of its provision of outside private residential amenity space that would be subject to shadowing for the majority of the year, as demonstrated in the shadow analysis submitted as part of the

application, would be seriously injurious to the residential amenity of future occupants and would be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports dated 03.09.2019 and 14.01.2020 were the basis of the planning authority decision. It appears from the Planning Report of 14.01.2020 that a refusal was recommended for two reasons; excessive shadowing of the private open space areas and inappropriate shopfront design and signage detail within an Architectural Conservation Area (ACA). However, the Report only cites one reason for refusal; the private open space reason as set out under Section 3.1.

3.2.2. **Other Technical Reports**

Water Services – No objection subject to conditions.

Roads Department – No objection.

Architectural Conservation Officer – Comment made in relation to the proposed signage following the further information response.

Public Realm Section – No comment.

Environmental Health Officer – No objection subject to conditions following the further information response.

Parks Department – The Planning Report states Parks has no comment following review.

Waste Management – No objection.

3.3. **Prescribed Bodies**

Irish Water – No objection subject to conditions.

3.4. **Third Party Observations**

None received.

4.0 Planning History

4.1. None relevant.

5.0 Policy Context

5.1. South Dublin County Development Plan 2016-2022

5.1.1. The site is in an area zoned 'Objective VC; To protect, improve and provide for the future development of Village Centres'. Table 11.7 sets out the use classes related to the zoning objective and it indicates that residential development is permitted in principle.

5.1.2. Housing (H) Policy 17 states it is the policy of the Council to support residential consolidation and sustainable intensification at appropriate locations, to support ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County. H17 Objective 4 states the Council will promote and encourage residential uses on the upper floors of appropriate buildings located in, inter alia, Village Centres.

5.1.3. The list of ACAs set out in Table 9.1 includes Clondalkin Village. An ACA is defined as a place, area, group of structures or townscape that is of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest or value or that contributes to the appreciation of protected structures. Policy HCL 4 states it is policy to preserve and enhance the historic character and visual setting of ACAs and to carefully consider any proposal for development that would affect the special value of such areas.

5.1.4. Shopfront design is contained within Section 11.2.9 (Shopfront Design). This states, inter alia, that shopfront proposals in traditional villages, should have regard to the guidance set out in the South Dublin County Council Shopfront Design Guide (2014).

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

5.2.1. These guidelines are relevant to the application.

5.3. Natural Heritage Designations

- 5.3.1. The closest Natura 2000 site is Glenasmole Valley SAC approx. 7.2km to the south. The closest heritage area is Grand Canal pNHA approx. 900 metres to the north.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The issue in relation to the shopfront elevational treatment is noted, though it was not referred to in the reason for refusal. A drawing is enclosed with the grounds of appeal showing an adjustment to satisfy the concerns of the Conservation Officer.
- It is submitted that the planning authority did not properly address all provisions of the Apartment Guidelines (2018), particularly Section 6.9, where planning authorities are requested to practically and flexibly apply the general requirements of the guidelines in relation to refurbishment schemes in, inter alia, some urban townscapes and 'over the shop' type or other existing building conversion projects where property owners must work within existing building fabric and dimensions. Building standards provide a key reference point and planning authorities must prioritise the objective or more effective usage of underutilised accommodation including vacant upper floors.
- It is submitted the planning authority were incorrect to refuse permission by reference to one out of a number of parameters when the guidelines require that in this type of situation all standards should not apply. The amenity spaces afford sitting out and ventilation in the town centre location.
- The proposed change of use relates to upper floors accommodation previously used within Class 1, 2, 3 or 6. The Planning & Development Regulations as amended provides that proposed development for residential use shall be exempted where the change of use is from Class 1, 2, 3 or 6 and the part of the structure concerned has been vacant for a period of two years or more

immediately prior. Therefore, subject to sub-article 6(d)(i-vi) and (e)(i-iii) the proposed development is exempt as the upper floors have been vacant for more than two years. Notwithstanding the decision made, the appellant will assert the right to benefit from the exempt development.

6.2. Planning Authority Response

6.2.1. The planning authority confirms its decision and the appeal raises no new issues.

6.3. Observations

6.3.1. None received.

7.0 Assessment

The main issues are those raised in the grounds of appeal and the Planning Reports and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Zoning
- Residential Amenity for Occupants
- Architectural Conservation Area (ACA)
- Appropriate Assessment

7.1. Zoning

7.1.1. The proposed development is located in an area zoned for village centre uses. Residential development is permitted in principle in this zoning as set out in the South Dublin County Development Plan 2016-2022. The principle of development is therefore acceptable, subject to the more detailed considerations below.

7.2. Residential Amenity for Occupants

- 7.2.1. The planning authority refused permission based on one specific issue; that the private open space areas provided would be subject to shadowing for the majority of the year and this would be seriously injurious to the residential amenity of future occupants.
- 7.2.2. I note that the grounds of appeal submit that the proposed change of use is exempt and, notwithstanding the decision made, the appellant will assert the right to benefit from exempted development. For clarity, this assessment makes no comment as to the exempt status, or otherwise, of the proposed change of use.
- 7.2.3. National policy encourages the provision of residential development in urban areas and more compact and sustainable urban development. The County Development Plan 2016-2022 promotes and encourages residential uses on the upper floors in Village Centres (Policy H17 Objective 4). The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2018, apply to the proposed development. The proposed development, in terms of floor areas, dual aspect etc., would be acceptable and in accordance with the guidelines and the planning authority raised no other issue with the change of use to apartments other than that cited in the reason for refusal.
- 7.2.4. Section 6.6 of the guidelines state planning authorities should have regard to quantitative performance approaches to daylight provision. A brief shadowing survey was submitted as part of a further information response. This showed that shadowing of the private open space areas was significant. The potential for relaxation of the Apartment Guidelines was referenced in the Planning Report as was the BRE 'Site Layout Planning for Daylight and Sunlight' document. A refusal of permission was issued.
- 7.2.5. Private open space areas in excess of minimum requirements are provided for each apartment. While it is acknowledged that sunlight to these areas may not be adequate having regard to normal standards, private amenity space is being provided. I consider that Section 6.9 of the guidelines applies specifically to development such as this i.e. a building refurbishment scheme which provides 'over the shop' accommodation in an existing, underutilised, village centre location. As such, I consider that, in practically and flexibly applying the general requirements of the guidelines, the shadowing of the

private open space areas is acceptable and would be consistent with local and national policy.

7.3. Architectural Conservation Area (ACA)

- 7.3.1. The site is located within the Clondalkin Village ACA. In the initial planning application submission, the front elevations of the take-away (No. 44) and the vacant retail unit (No. 43) were to be revised to a more uniform façade with a stone finish. The Architectural Conservation Officer noted, *inter alia*, that a stone clad finish is not in keeping with the ACA and overall design for both units, does not provide any interest or architectural quality and was not a significant improvement on the existing façade. The Architectural Conservation Officer's report formed the basis of Items 5 (shopfront) and 6 (signage) of the further information request. A revised shopfront design was submitted in response which indicted plaster instead of the stone façade and altered signage detail. The Architectural Conservation Officer's report on the further information response considered the revised elevation to have a more coherent design but indicated that the signage was a significant concern within this ACA. However, the Planning Report, in the assessment of the revised elevation and signage, considered the response not to be acceptable and clearly recommended a refusal of permission on the basis that both the shopfront design and signage detail would be out of character with the ACA and would not comply with Table 11.19 of the County Development Plan 2016-2022. Notwithstanding, this reason was not included in the reasons for refusal in the Planning Report or in the decision.
- 7.3.2. General policy relating to ACAs in the County Development Plan is referenced in Section 5.1.3 of this report. Although within an ACA, the buildings subject of the application are part of a 1950's/1960's row of commercial units set back from the public road by a car park. The commercial row of units is of limited architectural or historical merit and likely owes its designation to its location within the village rather than any contribution it makes to the ACA. Notwithstanding, the ACA designation applies.
- 7.3.3. As part of the grounds of appeal the Planning Report comments were noted and a further elevation drawing was submitted. I consider that this revised elevation drawing, with a plaster finish to both ground floor units and reduced size of signage lettering, is acceptable and would not have any adverse visual impact on the ACA. I consider it to

be the most visually interesting of the three different elevations received during the course of the application with the most appropriate signage detail and proportions. I consider that a compliance condition can be attached with respect to the external finish and specific signage detail.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location remote from and with no hydrological pathway 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 planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the provisions of the South Dublin County Development Plan 2016-2022, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018) and the nature and scale of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of residential amenity for proposed occupants and would not detract from the character and setting of the Architectural Conservation Area. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 10.12.2019 and by the further plans and particulars received by An Bord Pleanála on 10.02.2020, 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) The shopfronts shall be as shown on the Proposed Front Elevation drawing (Dwg. No. AI-06) received by An Bord Pleanála on 10.02.2020.
(b) Details of the external finish and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the amenities of the area/visual amenity.

3. Prior to commencement of development, the applicant or developer shall enter into a water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

4. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under

section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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.

Anthony Kelly

Planning Inspector

16.06.2020