



An
Bord
Pleanála

Inspector's Report

ABP-307648-20

Development	Protected Structure: Permission for change of use from single domestic dwelling to office use.
Location	48 Leeson Street Lower, Dublin 2.
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2398/20
Applicant(s)	Michael and Ann Marie Morris
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Michael and Ann Marie Morris.
Observer(s)	None
Date of Site Inspection	19 th October 2020
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1.1. The appeal site comprises No. 48 Lesson Street Lower, Dublin 2, a two bay four storey over basement Georgian house with painted render facing at basement level, course granite at street level (front only) and brickwork facing for all upper floor levels front and rear. No. 48 forms part of a row of houses dating from the 1830's.
- 1.1.2. No. 48 is listed as a Protected Structure – RPS 4420 and identified on the NIAH (Reg. Ref. 50110487) and considered to be of Regional Importance for its Artistic and Architectural Interest. Lesson Street Lower is located in an area zoned as a Georgian Conservation Area.
- 1.1.3. The current use of the property is as residential single dwelling use. No. 48 was the subject of the planning application in 2014 to change the use from office use to current residential use. The general character of the area is mixed with some residential but mostly commercial, predominately office uses.
- 1.1.4. The site is bounded on the rear by a surfaced car park with access from Leeson Place. This area is not included in the site area.
- 1.1.5. The site is 185sqm in area. The total floor area of the development is 573sqm.

2.0 Proposed Development

- 2.1. The development will consist of the change of use from single domestic dwelling to office use at No. 48 Leeson Street Lower, Dublin 2. The proposed development will comprise alterations and interventions to accommodate the change of use, including:
 - (a) Removal/adjustment of existing modern partitions, doors, sanitary and kitchen fit outs.
 - (b) Provision of new sanitary facilities within existing bathroom/wc areas.
 - (c) Repairs to existing windows and internal decorations.
 - (d) Provision of associated services alterations to facilitate the change of use.
- 2.2. The planning application was accompanied by a Conservation Statement.

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council issued notification to refuse planning permission for the following reasons:

1. The proposed development, by itself and by the precedent for which a grant of permission would set, would be contrary to the stated provisions of the Core Strategy of the City Development Plan 2016-2022, which recognises residential units as a scarce resource and which need to be managed in a sustainable manner so that the housing needs of the city are met. The proposed development, resulting in the permanent loss of a residential unit within an area designated as a Rent Pressure Zone, would also be contrary to the core principles of the Dublin Housing Strategy 2016-2022 which requires that the planning and building of housing and residential space in the city contributes to sustainable and balanced development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development which is located in a Georgian Conservation Area, by itself and by the precedent for which a grant of permission would set, would be contrary to the stated provision of the City Development Plan 2016-2022 'Z8' Zoning Objective which recognises the need to encourage more residential uses in the area and prevent an over concentration of office use. The proposed development would therefore be contrary to the proper planning and sustainable development of the area

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Planning Officer's report notes the zoning provisions of the area and the relevant policy objectives as set out in the development plan. It is set out that the proposal would result in the loss of residential use in the City Centre which is of concern having regard to the existing housing shortage currently experienced within Dublin City. In conclusion, the Planning Officer recommended refusal given the well-documented housing shortage, the overarching government housing policy to retain residential properties to the long term housing market and the location of the site

within a rent pressure zone and the loss of this dwelling to office use and the location in a Georgian Conservation Area where it is a development plan zoning objective to prevent an over concentration of offices and where the aim is to encourage more residential use.

3.2.3. Other Technical Reports

Drainage Division – Report dated 26th March 2020 has no objection and recommends conditions.

Roads Division – Report dated the 14th April 2020 has no objection and recommends conditions.

Conservation Section - Report dated the 22nd April 2020 recommends that permission be refused.

3.3. Prescribed Bodies

Transportation Infrastructure Ireland - In their report dated 31st March 2020 the TII set out that the site falls within the area covered by the Supplementary Development Contribution Scheme (Section 49, Planning & Development Act, 2000 as amended). Luas Cross City (St. Stephen's Green to Broombridge Line).

3.4. Third Party Observations

3.4.1. The Area Planner in their report refers to receipt of three submissions in relation to the development. A brief summary of the issues raised in the submissions to the Planning Authority are set out below:

- The proposed change of use is not consistent with zoning objective for the site.
- The proposed change of use and alternations are not consistent with the Architectural Heritage Protection Guidelines for Planning Authorities.
- The proposal is not consistent with the characterisation of the area under the NIAH.
- The building is a protected structured and the works are not adequately detailed or described in the planning application.
- There is an over-provision of offices in the South Georgian Core.
- There has been a significant loss of residential in the area.

4.0 Planning History

Site

DCC E0784/14 -Enforcement action closed for use of No.48/49 for use as student accommodation as it complied with planning permission.

DCC Reg. Ref. 2242/14 - Permission granted for change of use from offices to 2no. single domestic dwellings at No's 48 & 49 Leeson Street Lower, Dublin 2. (Both Properties are protected Structures). The proposed development will involve the following alterations and interventions to accommodate the change of use: (a) Removal of existing modern partitions, doors, wc and office related fit outs. (b) Close up all internal connections between the properties. (c) Provision of new domestic bathroom and kitchen installations. (d) Repairs to windows, doors, roof coverings and dormer roof lights, damp proofing and other miscellaneous fabric repairs and decorations. (e) Provision of associated services upgrades and alterations to facilitate the change of use

Adjoining

DCC Reg Ref. 2397/20 / ABP 307651-20 – Decision pending for change of use of No.49 Lesson Street lower for the change of use from single dwelling to office use.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

- 5.1.1. The application site is zoned Z8 (Georgian Conservation Areas): “to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective.” Office is a permissible use.
- 5.1.2. **Section 14.8.8 states** - Lands zoned Z8 incorporate the main conservation areas in the city, primarily the Georgian Squares and streets. The aim is to protect the architectural character/design and overall setting of such areas. A range of uses is permitted in such zones, as the aim is to maintain and enhance these areas as active residential streets and squares during the day and at night-time. **Offices may be permitted where they do not impact negatively on the architectural**

character and setting of the area and do not result in an over-concentration of offices.

- 5.1.3. **Appendix 2** of the development plan contains the Dublin Housing Strategy for the period of the development plan 2016-2022. Section 2.2 sets the principles and Key Objectives of Dublin's Housing Strategy

The following sections of the Development Plan, amongst others apply:

QH6 - To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive city.

QH7: To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

- 5.1.4. Chapter 6 - City Economy and Enterprise

CEE23(iv) :To recognise the economic potential of the Georgian quarters whether as visitor attractions or unique places to live or work in, as set out, for example, in 'The Future of the South Georgian Core' (Dublin City Council 2012)

- 5.1.5. Chapter 11 – Built Heritage and Culture

The site is located within an Conservation Area.

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

- 5.1.6. Chapter 16 - Development Management Standards

16.10 Standards for Residential Accommodation - The provision and protection of residential amenities is a primary concern of Dublin City Council. This will be achieved through the relevant objectives of the Dublin City Development Plan.

As outlined in the 'Quality Housing' chapter 5, it is an aim of Dublin City Council to encourage and foster living at sustainable urban densities through the creation of attractive mixed-use sustainable neighbourhoods.

Section 16.10.16 refers to Mews Dwellings

5.1.7. National Policy

National Planning Framework – Encourages increased densities in urban areas subject to appropriate design.

National Policy Objective 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

5.2. Natural Heritage Designations

There are two designed sites within 2.9Km of the site.

- South Dublin Bay SAC (site code 00210) is located 2.9km east of the site.
- South Dublin Bay and River Tolka Estuary SPA (site code 004024) is located 2.9km east of the site.

5.3. EIA Screening

Having regard to the nature and scale of the proposed development, the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- It is set out that office use is a permissible use under the zoning objectives - Z8

- The site is located on a busy city centre street and public transport corridor. The use as residential or office use has no bearing on aspirations to *maintain active residential street and squares during day and night time* and the change of use to office use would be the best way to secure the long term conservation of the structure.
- It is set out the 95% of the building stock on the street is commercial and the change of use of a single building is not a material impact on the concentration of commercial. The recommendation of DCC is to deny the applicant the same property right afforded to practically every other building on the same street.
- It is argued that the reference to the Core Strategy is taken completely out of context and the reference to the idea of ‘scare resource’ relates to zoned and serviced residential lands and is not related to a single house in a commercial street.
- The entire area of Dublin City Council has been designed a *Rent Pressure Zone*. The role of a single housing unit is not material in the consideration of housing supply and affordability.
- The submission refers to a number of precedent decisions where the Board have overturned the recommendation of DCC to refuse office use in the Z8 zoning objective area and precedent cases where DCC have granted office use within Z8 zoned lands.
- In conclusion, it is stated that office use is permitted in principle in the Z8 zoning objective and is consistent with the dominant commercial/office use of Lesson Street and the Georgian City core. It is set out that the property has an established office use and the current use as residential since 2014 is not sustainable at this location.

6.2. Planning Authority Response

None

6.3. Observations

None

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal 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:

- Principle of Development - Office use within Z8 (Georgian Conservation Area) zoning
- Appropriate Assessment

7.1. Principle of Development - Office use within Z8 (Georgian Conservation Area) zoning

- 7.1.1. The appeal relates to the change of use from residential dwelling (student accommodation) to office use and will comprise internal alterations and interventions to accommodate the change of use.
- 7.1.2. No. 48 Lesson Street Lower is listed as a Protected Structure – RPS 4420 and identified on the NIAH (Reg. Ref. 50110487) and considered to be of Regional Importance for its Artistic and Architectural Interest. The site is located on lands that are zoned Z8, Georgian Conservation Areas where the objective is “to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective” in the Dublin City Development Plan 2016-2022. The development plan establishes that office use is a permissible use within Z8 zoned lands. I note that the general area reflects a mix of uses however commercial/office use is the primary use.
- 7.1.3. The planning authority recommended refusal on the basis that the development would be contrary to the stated provisions of the Core Strategy of the Dublin City Development Plan 2016-2022 which recognises residential units as a scarce resource which need to be managed in a sustainable manner so that the housing needs of the city are met. It is further stated that the development would result in the permanent loss of a residential use in a Rent Pressure Zone and would be contrary to the core principles of the Dublin Housing Strategy 2016-2022 which requires that the planning and building of housing and residential space in the city contributes to sustainable and balanced development. The second reason for refusal referred to

the site location in a Georgian Conservation Area, by itself and by the precedent for which a grant of permission would set, would be contrary to the stated provision of the City Development Plan 2016-2022 'Z8' Zoning Objective which recognises the need to encourage more residential uses in the area and prevent an over concentration of office use.

- 7.1.4. Section 14.8.8 of the Development Plan states that lands zoned Z8 incorporate the main conservation areas in the city, primarily the Georgian squares and streets. The aim is to protect the architectural character/design and overall setting of such areas. A range of uses is permitted in such zones, as the aim is to maintain and enhance these areas as active residential streets and squares during the day and at night-time. Offices may be permitted where they do not impact negatively on the architectural character and setting of the area and do not result in an over-concentration of offices.
- 7.1.5. The applicant argues that the development is in compliance with the zoning objectives for Z8 in so far as office use is a permissible use and the use as residential or office use has no bearing on aspirations to "*maintain active residential streets and squares during day and night time*" and the change of use to office use would be the best way to secure the long term conservation of the structure. The applicant further contends that the site is located on a busy city centre street and public transport corridor and that 95% of the building stock on the street is commercial and the change of use of a single building is not a material impact on the concentration of commercial. It is argued that the recommendation of DCC is to deny the applicant the same property right afforded to practically every other building on the same street and that the PA's argument citing the Core Strategy is taken completely out of context and the reference to the idea of residential as a 'scare resource' relates to zoned and serviced residential lands and is not related to a single house in a commercial street.
- 7.1.6. It is further stated that the entire area of Dublin City Council has been designed a Rent Pressure Zone. The role of a single housing unit is not material in the consideration of housing supply and affordability.
- 7.1.7. The submission refers to a number of precedent decisions where the Board have overturned the recommendation of DCC to refuse office use in the Z8 zoning objective area and precedent cases where DCC have granted office use within Z8

zoned lands. I have reviewed the precedents set forward and I note that some applications were determined prior to the current Dublin City Development Plan 2016-2022 and others relate to part change of use only and not entire buildings. Notwithstanding, the subject application will be determined on its own merits in accordance with relevant national and development plan policies and objectives.

- 7.1.8. The guiding principle of the Core Strategy is the creation of a “Compact City with sustainable neighbourhoods” with a range of uses. Chapter 2 *Vision and Core Strategy* of the of the Developemt Plan states that the policies and objectives in the Plan promote intensification and consolidation of Dublin city. The Development Plan policies seek to underpin the creation of a compact city with mixed-use environments and sustainable neighbourhoods. In relation to residential developemt section 2.3.3 *Promoting Quality Homes* notes that consistent with creating a compact city and with Dublin’s role in the region, the continued, sustainable management of land zoned for housing is a central element of the core strategy.
- 7.1.9. Appendix 2 of the development plan contains the Dublin Housing Strategy for the period of the developemt plan 2016-2022. Section 2.2 Principles and Key Objectives of Dublin’s Housing Strategy seeks to advance polices that provide for the delivery of quality dwellings at higher densities to help create and help maintain a consolidated urban form that fosters the development of compact city neighbourhoods. In turn compact neighbourhoods help ensure a critical mass that contributes to the viability of local residential infrastructure particularly as it relates to local social, economic, amenity, cultural and transport infrastructures. In my opinion, the retention of residential uses in the city centre is a core consideration in the creatin of a compact, liveable city.
- 7.1.10. I note the Conservation Report submitted with the application makes reference to the Dublin City Council publication “The South Georgian Dublin Townhouse Re-use Guidance Document”, published in 2019 which seeks to encourage residential use in this area and highlights the need to increase residential occupancy in the city particularly in underused upper floors of historic buildings recognising that “such an approach not only helps alleviate the housing crisis; but increases the vitality of our streets and urban spaces, and crucially because it is recognised that a lived in historic building is the best way to ensure its protection in the long term.”

- 7.1.11. Section 2.3.10 of the Development Plan states that the creation of good neighbourhoods and socially inclusive communities is a priority of the Plan. Policy QH3 (i) of the City Plan seeks “To secure the implementation of the Dublin City Council Housing Strategy` in accordance with the provision of national legislation.” Having regard to the overriding provisions of the Core Strategy and the Housing Strategy to provide a compact city to include the provision of an appropriate mix of uses, and having regard to the existing concentration of office use immediate to the site and the need to maintain residential uses to ensure the critical mass of people required to sustain a vibrant and liveable city centre. I am not satisfied that change of use from residential to office use at this location is in accordance with the Core Strategy and the Housing Strategy .
- 7.1.12. Whilst, I accept that the development represents a conforming use within the Z8 zoning , I am not satisfied as outlined above and as reinforced by the applicant in their own submission that the proposed development will not result in over concentration of office use in the area in so far as Section 4.8.8 of the development plan clearly states that offices may be permitted where they do not impact negatively on the architectural character and setting of the area and do not result in an over-concentration of offices., as the aim is to maintain and enhance these areas as active residential streets and squares during the day and at night-time. I do not agree with the applicant on this matter and consider the incremental loss of residential use does impact on the vitality of the street and the noting the extent of existing office use immediate to the site the further loss of residential use would be contrary to the stated provision of the City Development Plan 2016-2022 ‘Z8’ Zoning Objective which recognises the need to encourage more residential uses in the area and prevent an over concentration of office use.
- 7.1.13. In conclusion, I am not satisfied that the change of use is acceptable and in accordance with the land use zoning objectives for the area. The further loss of residential at this location will, in my opinion, reduce the overall vibrancy and vitality of this area and the critical mass of people and activity necessary to maintain and enhance these areas as active residential streets and squares during the day and at night-time in accordance with section 4.8.8 of the Development Plan.

7.2. **Appropriate Assessment**

Having regard to the nature of the development, its location in a serviced urban area, and the separation distance 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

- 8.1.1. I recommend that planning permission for the proposed development should be refused for the reason and considerations, as set out below.

9.0 Reasons and Considerations

The proposed development, by itself and by the precedent for which a grant of permission for it would set, would be contrary to the stated provisions of the Core Strategy of the Dublin City Development Plan 2016-2022 which recognises residential units as a scarce resource and which need to be managed in a sustainable manner so that the housing needs of the city are met. The proposed development, resulting in the loss of a residential use, would also be contrary to the core principles of the Dublin Housing Strategy 2016-2022 which requires that the planning and building of housing and residential space in the city contributes to sustainable and balanced development. Furthermore, it is an aim of the Development Plan to maintain and enhance Z8 -Georgian Conservation Area as active residential streets and squares during the day and at night-time and to limit the over-concentration of offices. The development proposed would, therefore, be contrary to the proper planning and sustainable development of the area.

Irené McCormack
Planning Inspector

19th October 2020