



An
Bord
Pleanála

Inspector's Report ABP-307649-20

Development	Change of use from office to residential dwelling and retention permission for amendments to the former shop front.
Location	410/412 South Circular Road, Dublin 8.
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2391/20
Applicant(s)	Paddy Tico Real Estate Ltd.
Type of Application	Permission and Retention.
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Paddy Tico Real Estate Ltd.
Observer(s)	None
Date of Site Inspection	30 th of September 2020.
Inspector	Adrian Ormsby

1.0 Site Location and Description

- 1.1. The site is located on the South Circular Road in the Dolphins Barn area of Dublin approximately 2.5 km to the south west of Dublin City centre and within the Grand Canal cordon. The stated site area is 158 sq.m.
- 1.2. At the time of the site inspection it is clear that works have taken place to convert the previous commercial unit into the original dwelling. There is a front protrusion element to the dwelling with a flat roof finished in white render with a grey painted feature above the window. The building does not appear to be occupied.
- 1.3. The dwelling is bounded to the public path by a recently installed plinth with railing and pedestrian gate. This boundary is in keeping with the two dwellings to the south east.
- 1.4. The building is located within a terrace of two storey red brick style dwellings many of which have a commercial element at ground floor. The adjoining dwelling to north west has a ground floor commercial unit and appears vacant with the front door boarded up. This structure is in a poor state of repair and there is graffiti to the roller shutter. The two dwellings to south east appear to be maintained and resided in.
- 1.5. The immediate vicinity can be characterised as a residential area with a commercial element at ground floor of a number of dwellings. However, many of the commercial units have external roller shutters and appear vacant. A number of for lease signs was observed.

2.0 Proposed Development

- 2.1.1. The development comprises-
 - Permission for change of use of an existing taxi business at ground level of 40sq.m to residential use as part of existing dwelling
 - The drawings show two new ensuite bedrooms at ground floor of 21 sq.m and 18.2 sq.m.
 - In total there will be nine bedrooms.
 - Private open space appears to be c. 17.31 sq.m

- Retention of development at the site including amendments to the shop front and reinstatement of a pedestrian gateway and metal railing along the front boundary to the public path.

3.0 Planning Authority Decision

On the 22nd of June 2020 Dublin City Council refused this application for two reasons.

- The first reason detailed that the proposed development would be contrary to the provisions the Development Plan having regard to the Z4 zoning objective and the vitality and viability of the urban village Dolphins Barn and would have negative impact on the district centre.
- The second reason related to Residential Quality Standards as set out in Section 16.10.2 of the Development Plan and that the proposed development provided a substandard level of accommodation in terms of provision of private open space and aggregate living area required for a 9 bed dwelling.

4.0 Planning Authority Reports

4.1. Planning Reports

The recommendation to refuse permission in the Planner's Report reflects the decision of the Planning Authority. The main points are outlined as follows:

- While residential use is permissible within the land-use zoning objective, there are concerns that the proposal to return the entire building back to residential use may have a negative impact on the vitality and viability of the designated urban village of Dolphins Barn.
- The proposed works will increase the number of bedrooms from 6 to 9 providing a total number of 16 bed spaces.
- The provision of private open space and size of living/kitchen/dining room will have a negative impact on residential amenity of future occupants.

- Amendments to shopfront and reinstatement of railings improve the overall appearance of the building, there are concerns regarding the loss of independent access to the commercial unit at ground floor.

4.2. **Other Technical Reports**

- Drainage Division- No objections subject to complying with Greater Dublin Regional Code of Practise for drainage Works Version 6.0.

4.3. **Prescribed Bodies**

- None

4.4. **Third Party Observations**

- None

5.0 **Planning History**

5.1. There does not appear to be any planning history pertaining to the appeal site.

6.0 **Policy Context**

6.1. **Dublin City Development Plan 2016–2022**

Zoning

Section 14.8.4 - Zoning- District Centres – Zone Z4. District Centres are defined as

‘District centres, which include urban villages, provide a far higher level of services than neighbourhood centres.....

Section 14.8.4 also states-

‘To maintain their role as district centres, new development should enhance their attractiveness and safety for pedestrians and a diversity of uses should be promoted to maintain their vitality throughout the day and evening. In this regard, opportunity should be taken to use the levels above ground level for

additional commercial/retail/ services or residential use with appropriate social facilities.....’

Zoning Objective Z4 ‘To provide for and improve mixed-services facilities.’

Residential is a Permissible Use in Zoning Objective Z4

Other Relevant Policies

- RD17: To promote active uses at street level on the principal shopping streets in the city centre retail core and in Z4 district centres and having regard to the criteria for category 1 and category 2 streets and special planning control areas.
- QH13: To ensure that all new housing is designed in a way that is adaptable and flexible to the changing needs of the homeowner as set out in the Residential Quality Standards and with regard to the Lifetime Homes Guidance contained in Section 5.2 of the Department of Environment, Heritage and Local Government ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007).
- CEE16: (iv) To encourage and facilitate the rehabilitation and use of vacant and under-utilised buildings, including their upper floors.

Development Standards- Chapter 16

- Section 16.2.2 – Design Standards – Sub section 16.2.2.3- Alterations and Extensions- *Respect any existing uniformity of the street, together with significant patterns, rhythms or groupings of buildings.*
- Section 16.10.2 Residential Quality Standards – Houses – sets out standards to be achieved for houses, referring to DEHLG ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007) and includes consideration of Floor Area and Private Open Space.

6.2. Natural Heritage Designations

- 6.2.1. The site is located c. 5.3 km west of the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024).
- 6.2.2. The site is located c. 200m north of the Grand Canal pNHA.

6.3. EIA Screening

Having regard to the limited nature and scale of the proposed development it is considered that 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 required.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of this first party appeal can be summarised as follows:

- The applicants set out a brief background and rationale for the development
- The building was vacant in its entirety when purchased approximately 18 months ago. It had been in residential use, save for the former 'taxi-office' at ground level.
- The house was in a poor state of repair and was not habitable. The house was subject to an improvement process. Photos of refurbishment included. The applicant intends to rent the property as a private dwelling house.
- Taxi business ceased operations in excess of 18 months ago. It is unknown when the taxi-office use and subdivision from dwelling occurred.
- The original shop front for taxi business was in very poor condition. Replacement railing and pedestrian gates erected in keeping with neighbouring properties.

- This general area is dominated by private dwelling houses. Some of these have commercial uses at ground floor and some had their railings and front gardens removed.
- A list of private dwellings with railings intact is provided
- It is considered that the conversion of the taxi-office to residential use falls under the Exempted Development Regulations SI 30 of 2018. The applicant could have waited 9 months to avail of this exemption.
- Applicants contend this stretch of the South Circular Road is best suited to residential use.
- The applicant suggests revised proposals to make the two proposed bedrooms into a living room and amenity space. Revised drawings are shown in the appeal document, but formal scaled drawings have not been submitted.
- Revised proposal provides five bedrooms with 70 sq.m of internal amenity space- kitchen, dining and living rooms.

7.2. Planning Authority Response

- None

7.3. Observations

- None

8.0 Assessment

8.1. Main Issues

8.1.1. I have examined the application details and all other documentation on file, including the submissions received in relation to the appeal. I have inspected the site and have had regard to relevant local/regional/national policies and guidance. I consider that the main issues for this appeal are as follows-

- Zoning
- Vitality and Viability of the District Centre

- Residential Amenity
- Appropriate Assessment

8.2. Zoning

8.2.1. The site is zoned in the Development Plan as a District Centres – Zone Z4. The zoning objective for Z4 lands states- *‘To provide for and improve mixed-services facilities.’* In this regards it is noted that Residential uses are Permissible Uses for this Zoning Objective. The proposal is acceptable in principle.

8.3. Vitality and Viability of the Urban Village and District Centre

8.3.1. The Planning Authority considers that the proposed development and loss of a ground floor commercial unit will have a negative impact on the vitality and viability of the designated urban village and District Centre of Dolphins Barn.

8.3.2. Section 14.8.4 of the Development Plan states that in Z4 zoned lands *‘opportunity should be taken to use the levels above ground level for additional commercial/retail/ services or residential use with appropriate social facilities’*. Policy RD17 seeks to *‘promote active uses at street level’* in Z4 district centres. However, the Development Plan does not appear to restrict the use of existing ground floor commercial uses to non-residential development in District Centres. Furthermore, Policy CEE16 (iv) seeks to *‘encourage and facilitate the rehabilitation and use of vacant and under-utilised buildings, including their upper floors’*.

8.3.3. In this regard, the existing building although vacant appears to have primarily being in residential use with a small ground floor commercial unit. It is also likely that the building was once completely in residential use.

8.3.4. Section 14.8.4 of the Development Plan also states, *‘To maintain their role as district centres, new development should enhance their attractiveness and safety for pedestrians and a diversity of uses should be promoted to maintain their vitality throughout the day and evening.’*

8.3.5. In my opinion and in this context only, the single dwelling unit with boundary treatment in keeping with neighbouring residential properties significantly enhances the attractiveness and safety for pedestrians along this section of the South Circular

Road. The building provides a visual improvement on the streetscape having particular regard to the vacant adjoining building to south west and the number of external roller shutters in the general area. I also consider the existing Residential Use of this building as a use than can promote the vitality and viability of Dolphins Barn as a District Centre i.e. residents can avail of many of the local services in the area and as such is in accordance with the land use zoning objective.

- 8.3.6. However, the positive interpretation of this development should not be considered as setting a precedent for further similar applications where an accumulation of such developments in this area would certainly undermine the vitality and viability of the designated urban village and District Centre of Dolphins Barn.
- 8.3.7. Having regard to the above I consider it reasonable to permit the proposed development in this context, as the development will not undermine the vitality and viability of the urban village nor would it have a negative impact on the District Centre.

8.4. Residential Amenity

- 8.4.1. The Planning Authority considered the proposed development with nine bedrooms would provide a substandard level of accommodation having regard to private open space and aggregate living area. Given the potential population of the dwelling with nine bedrooms I would concur with the Planning Authority.
- 8.4.2. In the appeal document the applicants have submitted a revised proposal to convert the ground floor commercial use to a 40 sq.m living/dining space instead of two bedrooms. This proposal also shows the provision of a 8.5 sq.m utility/ laundry room at ground level, five bedrooms and a study room at first floor. In total the application now proposes c.70 sq.m of internal amenity space (kitchen, dining and living room), a maximum of five bedrooms, and other ancillary space. No additional private open space is provided.
- 8.4.3. The existing floor plans for the proposed dwelling appears to show six existing bedrooms. The original proposed floor plans showed nine bedrooms. I consider that the revised proposal submitted with the appeal represents a significant improvement on the existing residential arrangements and the original application in terms of the

aggregate living area and private open space having regard to the new population potential of the dwelling.

- 8.4.4. I am therefore satisfied that subject to appropriate conditions including submission of revised floor plans drawings to the Planning Authority for agreement, the proposed development would provide an acceptable level of residential amenity for future occupants of the dwelling.

8.5. **Appropriate Assessment**

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**

- 9.1. I recommend that planning permission should be granted, subject to conditions as set out below.

10.0 **Reasons and Considerations**

- 10.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development and the development to be retained would not undermine the vitality and viability of the Dolphin's Barn District Centre / Urban Village, would not seriously injure the amenities of the area or the property in the vicinity and would provide an acceptable level of residential accommodation. 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 received by An Bord Pleanála on the 20th day of July, 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 within three months of the date of this order and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The existing dwelling and the converted area proposed as living/dining space shall be jointly occupied as a single residential unit only and the converted area shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the converted area and the dwelling in the interest of residential amenity.

3. Within three months of the date of the grant of permission the developer shall submit for the written agreement of the Planning Authority the following-
 - a. Revised drawings suitably scaled, showing the provision of the development in accordance with the appeal submission dated 20/07/2020.
 - b. A maximum of five bedrooms throughout the dwelling

Reason: In the interest of clarity and residential visual amenity.

4. Water supply and drainage arrangements, including the 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 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 within three months of the date of this order 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.

Adrian Ormsby

30/09/2020