



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307790-20

---

<b>Development</b>	Amendment to previously approved planning permission, 3991/17, comprising the change of use of the retail units to residential use to provide 2 apartments.
<b>Location</b>	180-187, Townsend Street, Dublin 2
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	2645/20
<b>Applicant(s)</b>	Peter McVerry Trust CLG
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Kieran Murphy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	2 <sup>nd</sup> October 2020.
<b>Inspector</b>	Adrian Ormsby

## 1.0 Site Location and Description

- 1.1. The site is located in Dublin City centre, within a triangular shaped parcel of land that fronts Townsend Street to the North, Tara Street to the East and Pearse Street to the South. The site itself is located directly on to Townsend Street and has a stated site area of 442 sq.m.
- 1.2. The building is an existing four storey structure with a brick finish. There are two retail units at ground level with associated shopfronts. These units are numbered 181 and 185. At the time of the site inspection the units were not in active use but were most recently used as a Barber Shop and a restaurant/café. The other units at ground level also appear unoccupied with windows boarded up. There is laneway and gate along the western boundary that provides access to a yard to the rear of the building.
- 1.3. Pease Street Garda station is located to the west and south west of the site. Buildings to the west and south appear to be in residential, office and commercial/retail uses are evident at ground level.
- 1.4. The site is located opposite the Hawkins House, Apollo House redevelopment site where development works are underway.

## 2.0 Proposed Development

- 2.1. The development comprises-
  - Amendments to planning permission 3991/17
  - Change of use of two retail units at ground level to two one bedroom apartments (No 181- 42.98 sq.m to 35.35 sq.m and No. 185- 40.96 sq.m to 39.42 sq.m)
  - Ground floor ceiling heights of 2.8m.
  - Dual aspect, north and south.
  - Removal of shopfronts and associated elevational changes to front and rear.
  - Removal and reconstruction of two rear yard structures to 181 and 185.
  - Omission of access gate to laneway on west of site

- Relocation of bin store

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

On the 09<sup>th</sup> of July 2020 Dublin City Council granted permission subject to 7 conditions of a standard nature.

- Condition 7 requires the developer to comply with conditions of the parent application 3991/17 save for amendments made in this application.

### **4.0 Planning Authority Reports**

#### **4.1. Planning Reports**

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

- Townsend Street is designated as a higher order street within the Georges Quay LAP and residential development at ground floor should be avoided on these streets.
- The loss of retail units is regrettable, however having regard to the small size of the units, the surrounding context and existing precedence for ground floor residential units in the scheme the proposed development was deemed acceptable given the current housing and homelessness crisis.
- Proposed development is in line with National and Development Plan policy
- Café and retail units permitted as part of the Apollo House redevelopment.
- The development provides apartments which will add to the quality of housing stock in the area
- Floor area of proposed apartments are below the minimum standards of the Apartment Guidelines. Applicant has established that single bed apartments are for single occupancy only and the layouts are ideal for Peter McVerry Trust client i.e. single person in need of accommodation.

- The mix of apartments in the overall scheme does not meet the guidelines requirements. Existing building is in poor state of repair and the refurbishment scheme will enhance the streetscape and provide much need residential accommodation. The guidelines allows the Planning Authority discretion on a case by case basis having regard to the overall quality. The units size and mix is deemed acceptable in this instance. This should not be deemed as setting a precedent. It is an acknowledgement of the site specific and circumstantial issues relating to the location.

#### **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**

- Transport Infrastructure Ireland- comments relate to section 49 contribution levy if applicable.

#### **4.4. Third Party Observations**

One submission was received-

- Kieran Murphy of Apartment 45, The Corn Exchange, Poolbeg Street, Dublin 2. The issues raised in this submission are similar to those issues raised in the grounds of appeal and are summarised in section 7.1.

### **5.0 Planning History**

- 3991/17 Refurbishment and renewal of 18 no. existing one-bedroom apartments, Grant 17-Jan-2018. Condition 2 required the apartments to be for the sole use of the Peter McVerry Trust and associated charitable organisations and no apartment shall be sub-let or sold separately.

## 6.0 Policy Context

### 6.1. Ministerial Guidelines-

Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018. The following Specific Planning Policy Requirements are relevant-

#### Specific Planning Policy Requirement 1 states-

*Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).*

#### Specific Planning Policy Requirement 2 states-

*‘For all building refurbishment schemes on sites of any size.....:  
....• Where between 10 to 49 residential units are proposed, the flexible dwelling mix provision for the first 9 units may be carried forward and the parameters set out in SPPR 1, shall apply from the 10th residential unit to the 49th;  
.....*

Section 2.22 states-

*‘Development Plans should provide for flexibility in respect of dwelling mix in small-scale building refurbishment and urban infill development schemes:*

.....

*All standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by case basis, having regard to the overall quality of a proposed development.*

Specific Planning Policy Requirement 3 states-

*Minimum Apartment Floor Areas:*

- *Studio apartment (1 person)                      37 sq.m*
- *1-bedroom apartment (2 persons)              45 sq.m*

Specific Planning Policy Requirement 4- Dual Aspect

- 33% required in central and accessible locations, may be reduced for refurbishment schemes on a case by case basis subject to quality.

Specific Planning Policy Requirement 5- Ground Floor Ceiling Height

- Ground floor apartments a minimum 2.7m

Specific Planning Policy Requirement 6- Apartments per core (Proposal is for ground floor only)

- Maximum provision of 12 apartments per core, maybe increased for refurbishment schemes subject to quality.

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

Zoning

Section 14.8.5 - *Land-Use Zoning Objective Z5:*

*To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.*

Residential is a Permissible Use in Zoning Objective Z5

#### Development Standards- Chapter 16

- Section 16.10.1 Residential Quality Standards – Apartments

### **6.3. Georges Quay Local Area Plan 2012 extended to 2022**

#### Section 4.1 Land Use Strategy (Page 30)

In relation to Land Use and New Residential Development this section states-

*‘To ensure street activity and also to protect residential amenity, for all higher order streets should generally be located at first floor level at a minimum, particularly on elevations which face directly onto the public realm. Exceptions will be considered only where other approaches or particular site circumstances can ensure that residential amenity can be sufficiently protected.’*

#### *Land Use Objectives (Page 30)*

1. *To provide for active ground floor uses at the street level of new developments, particularly where the structure faces the higher order streets of Pearse Street, Townsend Street, Tara Street, Moss Street, City Quay, George's Quay, Burgh Quay and Lombard Street East. Ground floor residential uses and inaccessible elevations should be avoided on higher order streets.*

#### Section 4.2 Economic Development and Employment

##### *Economic Policies (Page.33)*

6. *To support the provision of an appropriate range, quality and quantity of new retail floor space to serve the needs of existing/future residents and workers in the locality and to encourage retail and other interactive mixed uses at ground floor level along main pedestrian routes as indicated on figure 15 in order to contribute to the vitality and vibrancy of the area.*

#### Section 4.4 Urban Form, Design and Public Realm

Higher Order Streets: Fig 20 (b)- Townsend Street (Page 41)

*Urban Form, Design & Public Realm Policies (Page 43)-*

5. *To promote active and varied ground floor uses to ensure vibrant and safe streets and to enliven the area, particularly on higher order streets and facing onto public spaces.*

#### Section 4.5 Housing

*Housing Policies (Page 46)-*

- 2- *'To make provision for additional housing in the area at sustainable densities in order to create the critical mass of persons to support existing and additional services in the area.'*
- 5- *'To avoid residential development at ground floor level where facing onto busy higher order streets.'*

#### **6.4. Natural Heritage Designations**

- 6.4.1. The site is located c. 3 to 5 km west of the South Dublin Bay SAC (000210), the South Dublin Bay and River Tolka Estuary SPA (004024) and the North Dublin Bay SAC 000206
- 6.4.2. The site is located c. 1.2 km west of the Grand Canal pNHA and c. 1km south west of the Royal Canal pNHA.



## 6.5. EIA Screening

- 6.5.1. 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 appeal include the original observation to the Planning Authority and can be summarised as follows-

- Dublin City Council (DCC) are owners of the site and have reviewed the application in terms of housing only and have not considered other land use policies- economy, tourism, public realm, local regeneration etc. Notwithstanding this the proposed development does not comply with Development Plan housing policies as listed in the DCC planning report.
- Relevant policies and objectives in relation to residential provision, mixed use developments, Higher Order Streets, energy efficiency have been identified from the George's Quay Local Area Plan.
- Consistency in DCC decisions for similar type developments is questioned citing recent planning applications and their refusal reasons.
- The application fails to deliver the minimum requirements for residential units.
- The retail units are perfectly sized for retail development as demonstrated by their recent occupancy. The units are undersized for residential development.
- The development is situated on the busiest section of Townsend St surrounded by mixed use development.
- DCC's assertion of residential precedent is questionable and cites planning reference 1216/95 on adjoining site where a similar proposal was refused.

- No development plan suggests the provision of additional residential units within the city centre is acceptable at any cost
- The schedule of accommodation submitted with the application states the apartment sizes are 35.84 and 35.35 sq.m
- The existing retail units have and continue to create vibrancy on Townsend Street. The development would likely create a dead street frontage.
- Proposal will add to quantity of housing stock not quality
- Proposal will remove amenity and employment opportunities.

## 7.2. Applicants Response

The applicants response to the third party appeal can be summarised as follows-

- The development is to be developed and maintained by Peter McVerry Trust for the purpose of providing social housing for single adult households.
- The 18 apartments have been vacant since 2011 and the two retail units are now vacant. Proposed development will revitalise Townsend Street by improving the streetscape and will encourage vibrancy and activity.
- Proposed development will make a small but significant contribution to addressing housing supply shortages and homelessness.
- Applicants refer to policy documents Rebuilding Ireland, the National Planning Framework and the Regional Spatial and Economic Strategy.
- Although DCC own the site, pursuing the development through the planning system was an intentional act to provide full transparency and to allow for public observations.
- The appellants selection and interpretation of policies is highly subjective and fails to appropriately consider the development in the sites context, the previously permitted development and the range of services and facilities in the area.

- Proposal fully accords with the core strategy and zoning objective. It will help achieve targets set out in the Housing Strategy. Development is entirely social housing and Part V does not arise.
- Residential is a permissible use in the Z5 zoning and proposal will contribute to the mix of uses in the area.
- Surrounding area is served by a wide range of local services and facilities. The development will increase the residential population and help achieve critical mass necessary to support viability of amenities and services. It will contribute to and diversify the variety of housing types and tenure in the city centre- socially mixed neighbourhood.
- Proposed apartments are high quality and are designed to provide suitable level of amenity for their intended occupants- clients of the Peter McVerry Trust. Design and layout is consistent with the 18 other units. Relaxation of standards is warranted.
- Apartments will be supported by a range of nearby facilities and social infrastructure.
- There are ample facilities and services in the immediate environs of the site- 245 restaurants, cafes and bars and 19 barbers within 10 minute walk of the site.
- Occupants will have access to 87.6 sq.m of communal open space provided to rear of development
- The provision of two apartments is consistent with 3991/17 where ground floor units 182, 184 and 187 were permitted for residential use.
- Units would not be suitable for student housing such a use would conflict with the management of the larger development.
- Given the pre-existing site layout and desire to maximise amenity space for all residents it is not feasible to provide bicycle parking. Ample space for informal parking is provided. Relaxation of such standards are suitable. Site is well located in terms of Dublin Bike stations.

- The applicants clarify the proposed floor area of the apartments- 35.35 sq.m to No. 181 and 39.42 sq.m to No 185. These were shown in the drawings submitted with the application and assessed by DCC.
- Discretion is facilitated in the Apartment Guidelines. This is a pragmatic approach given the application specific circumstances.
- The units are vacant and represent blank frontages. Proposal will improve the streetscape and the units.
- A quantum of local services within 5 and 10 minutes walking distance is submitted in support of the application. The loss of the two units will not have a material impact on amenities and services.

### **7.3. Planning Authority Response**

- None

### **7.4. Observations**

- None

## **8.0 Assessment**

8.1. 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 relevant issues for consideration in this appeal are as follows-

- Residential Amenity- Apartments
- Georges Quay LAP
- Loss of Retail Units to Higher Order Street
- Appropriate Assessment

## 8.2. Residential Amenity- Apartments

- 8.2.1. This application is for amendments to planning reference number 3991/17 which permitted the refurbishment and renewal of 14 no. existing one-bedroom apartments and 4 studios on this site. This permission was Granted on the 17-Jan-2018 before the implementation of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities in March 2018 . 3991/17 would have been assessed under the Apartments Guidelines introduced in December 2015 and the current City Development Plan.
- 8.2.2. Condition 2 of 3991/17 required the permitted apartments to be for the sole use of the Peter McVerry Trust and associated charitable organisations and no apartment shall be sub-let or sold separately.
- 8.2.3. The 2018 guidelines introduced a number of Specific Planning Policy Requirements (SPPR) that the proposed development must be assessed against. Having reviewed the schedule of accommodation submitted with this application it is clear that the permitted 18 units and the proposed 2 new units at ground level do not meet many of the SPPR's of the 2018 guidelines nor do they meet many of the requirements of the preceding 2015 apartment guidelines. However, as the proposed application is for amendments to two retail units at ground floor and the development permitted under 3991/17 cannot be reconsidered.
- 8.2.4. The proposed development does not meet the requirements of SPPR 1 and 2 in terms of Housing Mix. In the context of the permitted development 3991/17, the overall refurbishment scheme and the separate location of the two retail units it would not be reasonable or pragmatic to insist the current application provides a mix of units in accordance with SPPR 1 and 2.
- 8.2.5. SPPR 3 sets Minimum Apartment Floor Areas of 45 sq.m for one bedroom apartments (2 persons) and 37 sq.m for Studio apartments (1 person). The two proposed apartments have floor areas of 35.35 sq.m and 39.42 sq.m both below the requirement of 45 sq.m for a two person one bedroom apartment. The applicant has not applied for a studio but has indicated the apartments will be occupied by one person only. The apartment guidelines are silent on floor areas for one person, one bedroom apartments. In my view the floor area requirement of 37 sq.m for a one person studio is a reasonable benchmark to consider the proposed development in

this site's specific context as permitted under 3991/17. One apartment is larger than 37 sq.m and the other is 1.65m below. I do not consider this deficiency to be significant. In forming this view I have specific regard to the applicant's model for this site as permitted under 3991/17 where the units will specifically address a need for single persons only i.e. clients of the Peter McVerry Trust in order to respond to Ireland's housing and homelessness crisis and Condition 2 of 3991/17.

8.2.6. As the proposal does not meet the requirements of SPPR 1, 2 and 3 consideration is given to section 2.22 of the guidelines which states-

*"All standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development."*

Accordingly, the guidelines allow a relaxation of development standards for refurbishment schemes such as that proposed. The applicant details that the proposed development responds to Ireland's housing and homelessness crisis and the units specifically address a need for single persons. The quality of the units are therefore specifically suited to serve the intended occupants and clients of the Peter McVerry Trust. The development will also play a significant role in refurbishing an underutilised and poorly maintained building thereby improving the quality of the visual appearance of the building and the streetscape.

8.2.7. Having regard to the specific design and intended occupants of the units, the overall development under 3991/17 and Condition 2 of that permission restricting the use of the units to the Peter McVerry Trust and associated charitable, I am satisfied that a relaxation of development standards is warranted in the instance of the proposed development and as such, it is in accordance with Section 2.22 of the Apartment Guidelines.

### 8.3. **Georges Quay Local Area Plan**

8.3.1. The application site is located on Townsend Street which is clearly identified as a 'Main Pedestrian Route' and a 'Higher Order Street' in the Georges Quay LAP. The following Objective and Policies are particularly relevant-

- Land Use Objective 1,

- Economic Policy 6,
- Urban Form, Design & Public Realm Policy 5 and
- Housing Policy 2 and 5

8.3.2. Housing policy 5 specifically seeks to 'avoid' residential development at ground floor level where facing onto a 'higher order streets'. Housing policy 2 however, seeks to make provision for additional housing in the area at sustainable densities in order to create the critical mass to support existing and additional services. None of the other policies or objectives specifically restrict residential development at ground level. Of note Section 4.1 in relation to land use and upper floor residential uses states *'Exceptions will be considered only where other approaches or particular site circumstances can ensure that residential amenity can be sufficiently protected.'*

8.3.3. Within the overall application site, three ground floor residential units have been permitted under 3991/17. The use and residential amenity of all the units permitted and proposed are specific to clients of the Peter McVerry Trust and are protected by Condition 2 of 3991/17. As such I am satisfied that sufficient *'particular site circumstances'* have been identified to ensure the proposed development remains consistent with the policies and objectives of the LAP.

#### 8.4. **Loss of Retail Units to a Higher Order Street**

8.4.1. The appellant argues that the existing retail units have and will continue to create vibrancy on Townsend Street and the proposed development would likely create a dead street frontage and remove amenity and employment opportunities in the area.

8.4.2. The development will lead to the loss of two small retail units on Townsend Street. Having considered the site's general city centre location and the extent of local services and amenities as identified in the applicants response to the appeal, I do not consider the subject proposal will detract significantly from level of services in the area.

8.4.3. The subject application is for amendments to the permitted development under 3991/17 and as such cannot be considered in isolation. The permitted and proposed development will refurbish an underutilised and poorly maintained building, it will improve the visual appearance of the building and the streetscape and it will

contribute to the population of the area who can avail of other local amenities and services in this city centre location. As such I am satisfied the development can contribute to the vitality and vibrancy of the area as a whole and is consistent with the Z5 zoning objective as set out in the Development Plan.

## **8.5. Appropriate Assessment**

- 8.5.1. 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 Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018, the Dublin City Development Plan 2017-2023, the Georges Quay Local Area Plan 2012-2022, the existing permission on the site 3991/17 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 provide an acceptable level of residential accommodation for its intended occupants and would contribute to the overall zoning objective of the site. 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 and by the further plans and



particulars received by An Bord Pleanála on the 1st day of September 2020, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The developer shall comply with all conditions of the parent application 3991/17 save for amendments made by this application.

Reason: In the interest of clarity.

3. 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.

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

Reason: In the interest of public health.

---

Adrian Ormsby

07<sup>th</sup> October 2020