



An
Bord
Pleanála

Inspector's Report 307906-20

Development	Retention of change of use from office to hostel accommodation
Location	38 Arran Quay, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3007/19
Applicant(s)	Peter Loughran
Type of Application	Retention Permission
Planning Authority Decision	Refuse Retention Permission
Type of Appeal	First Party v. Decision
Appellant(s)	Peter Loughran
Observer(s)	None
Date of Site Inspection	29 th March 2021
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 312 m² and is located at No. 38 Arran Quay, Dublin 7 fronting onto the River Liffey to the south. The existing development is a 4-storey, mid-terrace Protected Structure, which accommodates a newsagent premises at the ground floor level, with 3-floors of hostel use above. The ground floor unit does not form part of this planning application. The building façade above ground floor is characterised by red brick, with side opening uPVC windows.
- 1.2. The adjoining property to the west at Nos. 39-40 Arran Quay formerly accommodated the Voodoo Lounge bar and music venue at ground floor level but appeared to be vacant of the time of the inspection. The adjoining property to the east accommodates a laundrette at the ground floor. The upper floors of both adjoining properties appeared to be in residential use.

2.0 Proposed Development

- 2.1. The proposed development comprises the retention of the change of use of the 1st, 2nd and 3rd floor levels of a 4-storey building from office to hostel accommodation, with access from Arran Quay, with new ancillary sanitary, kitchen and dining facilities, all within a Protected Structure (RPS Ref. No. 267) at No. 38 Arran Quay, Dublin 7.
- 2.2. The hostel accommodates 50 no. bedspaces across 9 no. dormitory-style rooms, a lounge (20 m²), kitchen (18 m²) and dining room (20 m²). The hostel also includes 2 no. shower rooms with toilet facilities, 3 no. individual toilets and 2 no. individual showers.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Retention Permission for 2 no. reasons issued on 14th July 2020, which can be summarised as follows:

(1) The alterations to facilitate the change of use do not relate sensitively to the architectural detail and character of the original structure, so that the

development has caused serious injury to the historic fabric, integrity and architectural character of the Protected Structure, contravening Section 11.1.5.1 CHC2 (a), (b) and (c) of the development plan;

and,

- (2) The hostel to be retained does not provide adequate storage facilities, lounge area, shower and w.c. facilities and therefore does not provide an adequate standard of accommodation for hostel occupants and would be contrary to Section 16.11 of the development plan.

3.2. Planning Authority Reports

3.2.1. Planning Reports (10th July 2019 and 10th July 2020)

- 3.2.2. Following the initial assessment of the application, Dublin City Council's Planning Officer recommended that Further Information be requested in relation to:

(1) details of the hostel occupancy and the type of hostel to be retained, including the average duration of occupancy;

(2) details of how the proposed hostel use complies with either the Fáilte Ireland regulations for holiday and youth hostels under the Tourist Traffic Acts 1939 – 2016 or development plan standards for homeless hostels as per Section 16.12 of the plan; a map of all homeless and other support services within 500m radius of the site; a statement of whether the proposal will serve a local or regional demand; and, a statement on the management of the facility;

(3) a detailed room by room inventory and detailed drawings of the surviving fabric of the building, and a full and detailed specification and conservation method statement for the proposed works, highlighting the significance of the surviving fabric and features; and,

(4) Proposals to regularise the replacement of the original timber sash windows on the front elevation with uPVC windows.

- 3.2.3. A Response to the Request for Further Information was submitted on 17th June 2020, which can be summarised as follows:

- 3.2.4. **Item No. 1:** The type of occupancy is short-term tourist accommodation with an average stay of 1 week.
- 3.2.5. **Item No. 2:** A series of measures have been undertaken to ensure compliance with Fáilte Ireland regulations for holiday and youth hostels.
- 3.2.6. **Item No. 3:** The Architectural Heritage Impact Assessment which accompanied the planning application details the extent of works carried out to the property when it was converted to hostel use.
- 3.2.7. **Item No. 4:** It is proposed to reinstate one-over-one pane timber sash windows on the front elevation of the building within 12 months of a grant of planning permission.
- 3.2.8. Following an assessment of the further information submission, Dublin City Council's Planning Officer considered that the retained hostel was substandard in terms of the standard of accommodation, including the lack of a secure storage shed for bicycles and other equipment, the size of the lounge area, and the number of showers and toilets provided to accommodate 50 no. persons.
- 3.2.9. The Planning Officer also considered that the works already carried out were insensitive and seriously injurious to the character of the Protected Structure and a refusal of planning permission was recommended.
- 3.2.10. **Other Technical Reports**
- 3.2.11. **Engineering Department Drainage Division:** No objection subject to conditions.
- 3.2.12. **Conservation Officer:** Recommended that planning permission be refused for the retained development due to its impact on the Protected Structure.

3.3. **Prescribed Bodies**

- 3.3.1. **Irish Water:** No report received.
- 3.3.2. **Transport Infrastructure Ireland:** Recommends that a S.49 Development Contribution condition be attached, if applicable, in the event planning permission is granted.
- 3.3.3. **National Transport Authority:** No report received.
- 3.3.4. **An Chomhairle Ealaíon:** No report received.
- 3.3.5. **Heritage Council:** No report received.

3.3.6. **An Taisce:** No report received.

3.3.7. **Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs:** No report received.

3.4. **Third Party Observations**

3.4.1. None.

4.0 **Planning History**

4.1. None.

4.2. **Enforcement History**

4.2.1. **Planning Authority Ref. E029/18:** Change of use to hostel accommodation without planning permission.

5.0 **Policy and Context**

5.1. **Dublin City Development Plan 2016-2022**

5.2. **Land Use Zoning**

5.2.1. The site is subject to land use zoning “Z5” (City Centre) which has the objective, “to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect, its civic design character and dignity”.

5.2.2. Hostel uses are permissible under this zoning objective.

5.3. **Conservation**

5.3.1. The site is located within the River Liffey Conservation Area.

5.3.2. **Policy CH4:** 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.

5.4. **Protected Structures – Policy Application**

5.4.1. No. 38 Arran Quay is designated as a Protected Structure (RPS Ref. 267).

- 5.4.2. The development plan states that interventions to Protected Structures should be to the minimum necessary and all new works will be expected to relate sensitively to the architectural detail, scale, proportions and design of the original structure.
- 5.4.3. Where possible, existing detailing, fabric and features of the structure should be preserved, repaired or, if missing or obscured, should be reinstated or revealed. In almost all cases, the materials used for alterations, extensions or repairs should match the original and the use of non-traditional materials will not normally be acceptable. Original and historic fabric should be retained and protected, wherever possible.
- 5.4.4. Any development which affects the interior of a protected structure must be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures, fittings and materials. The original plan form of Protected Structures should be protected or re-instated and not compromised by unsympathetic alteration or extension.
- 5.4.5. The historic use of the structure is part of its special interest and in general the best use for a building will be that for which it was built. Where a change of use is proposed, the building should be capable of being converted into the new use without harmful extensions or modifications, especially if the change of use would require new openings, staircases and substantial subdivisions to the historic floor plan or loss of historic fabric. In finding the optimum viable use for Protected Structures, other land-use policies and site development standards may need to be relaxed to achieve long-term conservation.
- 5.4.6. **Policy: CHC1:** To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.
- 5.4.7. **Policy CH2:** To ensure that the special interest of Protected Structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will: (a) protect or, where appropriate, restore form, features and fabric which contribute to the special interest; (b) incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances; (c) be highly sensitive to the historic fabric and special interest of the interior, including its plan

form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials; (d) not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the Protected Structure; (e) protect architectural items of interest from damage or theft while buildings are empty or during course of works; (f) have regard to ecological considerations, for example, protection of species such as bats. Change of use of Protected Structures, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted.

5.5. Tourism/Visitors

5.5.1. **Policy CEE12 (i):** To promote and facilitate tourism as one of the key economic pillars of the city's economy and a major generator of employment and to support the provision of necessary significant increase in facilities such as hotels, apart hotels, tourist hostels, cafés, and restaurants, visitor attractions, including those for children.

5.5.2. **Policy CEE12 (iii):** To promote and support the development of additional tourism accommodation at appropriate locations throughout the city.

5.6. Bed and Breakfast, Guesthouses

5.6.1. In determining planning applications for change of use to bed and breakfast, guesthouse, hotel or hostel in residential areas, the planning authority will have regard to the following: (1) size and nature of facility, (2) the effect on the amenity of neighbouring residents, (3) the standard of accommodation for the intended occupiers of the premises, (4) the availability of adequate, safe and convenient arrangements for car parking and servicing, (5) the type of advertising proposed, (6) the effect on listed buildings and/or conservation areas, (7) the number of existing facilities in the area.

5.7. Fáilte Ireland – Tourist Traffic Acts 1939 – 2003 Registration and Renewal of Registration Regulations for (1) Holiday Hostels 2007 (2) Youth Hostels 2007

5.7.1. These Regulations apply to all premises seeking registration from Fáilte Ireland as holiday / youth hostels and identify the standard of accommodation to be provided within such premises.

5.8. Natural Heritage Designations

5.8.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first-party appeal has been lodged by PMCA Architects on behalf of the applicant, the grounds of which can be summarised as follows:

- The alterations to the building as referred to by the Planning Authority in refusal reason no. 1, were carried out prior to the change of use from office to hostel accommodation.
- No physical interventions haven taken place to facilitate the change of use, and the building remains the same as when last used as offices in 2012, with the building remaining vacant since that time.
- The building is not a rare or exceptional building type in conservation terms.
- The assessment of the standard of accommodation provided in the hostel is unreasonable and the specific requirements have been applied in a rigid and inappropriate manner.
- Notwithstanding the foregoing, the applicant proposes to reduce the number of bedspaces from 50 to 40 to ensure that the accommodation meets the highest standards, with additional space allocated for a common area at the 1st floor level.
- The proposal for an opening in the separating wall between the rear rooms at 2nd floor level is no longer required, which will eliminate any intervention whatsoever in the building.
- The retained development complies with the site's Z5 land use zoning and is well located for short-term tourist visitors and tourist venues in the city.
- The site is no longer an attractive or practical location for office, other commercial or residential use and the proposed use will ensure the continued occupation and upkeep of the building.

- The appellant has committed to replacing the uPVC windows on the building façade with suitable timber sash windows.
- The Architectural Heritage Impact Assessment notes that a significant amount of the original building fabric has already been lost and the building is not rare, with its character mostly perceived from the public realm.
- There has been no intensification of plumbing or drainage works carried out to the building as it existed as offices.
- A Fire Safety Certificate (FSC) has been obtained from Dublin City Council Fire Prevention Department.
- The Conservation Officer's assessment includes subjective opinions which undermine the veracity of refusal reason no. 1.
- The development plan does not contain specific quantitative criteria for hostel accommodation, with section 16.11 of the plan primarily relating to bed and breakfast/guesthouses in residential areas and including vague assessment criteria.
- The standard of accommodation is controlled by Fáilte Ireland and the appellant has sought to comply with the 2007 Regulations.
- A total of 40 bedspaces are now proposed, with common social areas provided at 1st and 3rd floor levels and kitchen/dining facilities provided at 3rd floor level. The communal spaces, floor area/bedspace ratios, showers and toilets also comply with the regulations.
- Each room is provided with a full height locker per bedspace and an under-bed backpack storage box.
- The development plan does not identify the need to provide bicycle storage for tourist hostel use and it is inappropriate and unreasonable to apply this criterion to the proposal.

6.1.2. The appeal is accompanied by a schedule of compliance with the Fáilte Ireland Regulations (schedule A). The appeal also includes correspondence from Citywide Auctioneers which states that there has been limited interest in the use of the building for offices on foot of its internal layout and condition.

6.1.3. While the appellant's agent states that a copy of the FSC has been provided to the Board, I note that it has not been attached to the appeal submission.

6.2. Planning Authority Response

6.2.1. None received.

6.3. Observations

6.3.1. None.

7.0 Assessment

7.1. I am satisfied that the main issues for consideration in this case include:

- Impact on Protected Structure
- Standard of Accommodation
- Appropriate Assessment

7.2. Each of these issues is considered in turn below.

7.3. Impact on Protected Structure

7.3.1. Reason no. 1 of the Notification of the Decision to Refuse Retention Permission states, inter alia, that the alterations to facilitate the change of use do not relate sensitively to the architectural detail and character of the original structure, so that the development has caused serious injury to the historic fabric, integrity and architectural character of the Protected Structure. As such, it was considered that the retained development would contravene Section 11.1.5.1, CHC2 (a), (b) and (c) of the development plan.

7.3.2. Dublin City Council's Conservation Officer considered that inadequate documentation and drawings had been submitted to describe the existing Protected Structure and the works proposed for retention. The Conservation Officer also considered that the change of use was inappropriate based on:

(1) the intensification of plumbing and drainage services associated with the installation of showers, toilets and the relocation of the kitchen to the rear of the building;

- (2) the nature of the development, with rooms being filled by bunk beds and lockers;
- (3) the impact of fire upgrading works on the historic fabric and the potential for further such impacts to occur; and,
- (3) the replacement of original windows with uPVC.

7.3.3. While the Conservation Officer acknowledged that the continued use of a Protected Structure is essential for its survival, in this instance, it was considered there was a lack of conservation and planning gain associated with the proposal, and that the works which had been executed in the building, were likely to have had adverse and injurious impacts on its historic fabric.

7.3.4. The applicant was requested to address the Conservation Officer's concerns by way of the Request for Further Information which issued on 10th July 2019. A response to this request was submitted by the applicant on 17th July 2020 which referred the Planning Authority to the information contained within the Architectural Heritage Impact Assessment (AHIA) which accompanied the application.

7.3.5. The AHIA states that the property is not a rare building type, with its character mostly perceived from the public realm. Section 2.9 states that the basic structure seems intact and there are ample remnants of original fabric. It is also noted that a significant amount of original fabric has been lost, including all chimney pieces and most of the doors. Much of the skirting and architraves, the timber staircase and cornices were noted to be extant. Overall, the condition of the building was considered very good, and it did not appear to be under significant stress, notwithstanding the large number of guests being accommodated. The assessment concludes that there is benefit in keeping the building in active use, with the hostel use noted as being compatible with the commercial history of the building.

7.3.6. In considering the impact of the development on the Protected Structure, I note that it is no longer proposed to create an opening between the kitchen and dining room on the 3rd floor of the building (Drawing No. PL108 which accompanies the appeal refers). The AHIA had identified that this alteration would have a minor negative impact on the building. In addition, the appellant now proposes to reinstate appropriate timber sash windows to the front façade. In my opinion, the replacement of the existing uPVC windows would significantly improve the appearance of the building in street level views from Arran Quay. This matter can be addressed by

planning condition in the event the Board grants permission to retain the development.

7.3.7. While I acknowledge the concerns of Dublin City Council's Conservation Officer regarding the impact of the retained development on the character of the Protected Structure, I note that a significant amount of the original fabric had already been lost before the hostel use was implemented, with very minor modifications required to facilitate the change of use. Hostel uses are permissible on Z5 zoned lands, and as such, I do not agree that the proposed change of use is inappropriate for the Protected Structure, having regard to the extent of the works which arise under this application. I also note that the building has a somewhat marginal location on the north city quays and that the hostel use, which is largely reversible, would enable the Protected Structure to remain in active use.

7.3.8. As such, I consider that it would be unreasonable to refuse retention permission for the change of use based on its impact on the character of the Protected Structure.

7.4. Standard of Accommodation

7.4.1. Reason no. 2 of the Notification of the Decision to Refuse Retention Permission states, inter alia, that the retained hostel does not provide adequate storage facilities, lounge area, shower and w.c. facilities and therefore does not provide an adequate standard of accommodation. As such, the development was considered contrary to Section 16.11 of the development plan.

7.4.2. As identified by the appellants agent, the Dublin City Development Plan 2016-2022 does not provide quantitative standards for hostel developments. In reviewing Section 16.11 of the plan (see section 5.6.1 of this report), I note that it refers to planning applications for a change of use to bed and breakfast, guesthouse, hotel or hostel in residential areas. Given the Z5 land use zoning of the site and its location within the city centre, I do not consider it can be categorised as a residential area. Thus, in my opinion, it would be inappropriate to refuse permission for the retained development on the basis that it contravenes Section 16.11 of the plan.

7.4.3. In seeking to address the Planning Authority's concerns regarding the standard of accommodation, the appellant proposes to reduce the hostel occupancy to 40 bedspaces as illustrated on Drawing Nos. PL107 and PL108 which accompany the appeal. An additional common/social room is also proposed on the 3rd floor of the

building. In my opinion, these amendments can be considered as part of this assessment, given that no material alterations are proposed to the retained development.

- 7.4.4. In reviewing the accommodation standards identified in the Fáilte Ireland Regulations for hostel premises, and the schedule of compliance which accompanies the appeal, I note that the accommodation generally meets the required standards based on an occupancy of 40 bedspaces, excluding a shortfall of 2 no. wash hand basins. I consider that this shortfall is a matter for the registration authority and is not a material planning consideration. In my opinion, the reduced bedspace provision would improve the overall standard of accommodation, including an additional social/common room.
- 7.4.5. While Dublin City Council's Planning Officer expressed concerns that no lockable shed had been provided for the storage of bicycles or other equipment, I agree with the appellant's agent that this is not a significant issue having regard to the short-term nature of this tourist accommodation.
- 7.4.6. During my inspection, I noted some concerns regarding the quality of the furnishings and fittings provided within the hostel. However, in my opinion, this matter is not a material planning consideration in this case. I also noted that only 1 no. cooker is provided in the kitchen, which appears limited to meet the cooking needs of 40 guests. In reviewing the Fáilte Ireland Regulations, I note that self-catering kitchens shall provide "cooking equipment for boiling, roasting, grilling, etc., of food", with no standard prescribed in terms of the extent of such equipment to be provided. On balance, having regard to the short-term nature of the accommodation, and the proximity of the site to a range of food and beverage facilities in the city centre, I consider that it would be unreasonable to refuse retention permission on this basis.
- 7.4.7. I note that the revised floor plan drawings which accompany the appeal do not include an office or check-in desk. As such, I consider it appropriate that a management plan be agreed in writing with the Planning Authority which sets out details of how the hostel will be operated and managed. In my opinion, this matter can be addressed by planning condition if the Board decides to grant retention permission in this instance.

7.5. Conclusion

- 7.5.1. The site is subject to land use zoning “Z5” (city centre), under which hostel uses are permissible in principle. While I acknowledge the building is a Protected Structure, I consider that the hostel use would be acceptable, given the limited extent of the works required to facilitate the change of use, the extent of original fabric which had already been lost before the change of use was implemented, and the duration for which the building has remained vacant. As such, I consider that the retained development would be acceptable at this location and I recommend that retention planning permission be granted.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the retained development, and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

7.7. Note: Development Contributions

- 7.7.1. Dublin City Council’s S.48 Development Contribution Scheme 2020-2023 and the Luas Cross City S.49 Supplementary Development Contribution Scheme confirm that applications for retention permission do not benefit from the exemption to pay development contributions for a change of use from one commercial development to another.
- 7.7.2. As such, I recommend that appropriate S.48 and S.49 conditions be attached if retention permission is granted.

8.0 Recommendation

- 8.1. I recommend that retention planning permission be granted subject to conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the Z5 zoning objective which applies to the site, its location within the city centre and the extent of the works to the Protected Structure to facilitate the change of use, it is considered that, subject to compliance with the conditions set out below, the retained development would not adversely impact on the character or integrity of the Protected Structure or any neighbouring property, would serve to keep the building in active use and would increase the provision of tourist accommodation in the city. The retained development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be retained and implemented in accordance with the plans and particulars lodged with the application, as amended by Drawing Nos. PL107 and PL108 submitted with the appeal, 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 and the development shall be carried out and retained in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) The existing uPVC windows above ground floor level on the front elevation of the building shall be replaced with timber sash windows within 12 months of the date of this Order. Details of the replacement windows and the procedures to be followed in order to comply with this requirement, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(b) All works to the Protected Structure, shall be carried out under the supervision of a qualified professional with specialised conservation expertise.</p> <p>Reason: In order to protect the character of the Protected Structure.</p>

3.	<p>The developer shall submit a hostel management plan for the written agreement of the Planning Authority within 3 months of the date of this Order, which shall set out details of the management of guest reservations, building access arrangements, accommodation servicing and maintenance, and waste management segregation, storage and collection arrangements.</p> <p>Reason: To ensure a satisfactory standard of development.</p>
4.	<p>The hostel shall accommodate a maximum of 40 no. bedspaces as illustrated on Drawing Nos. PL107 and PL108 provided with the appeal.</p> <p>Reason: In the interest of clarity and to ensure a satisfactory standard of development.</p>
5.	<p>The hostel accommodation shall be used as short-term tourist accommodation only and shall not be used as long-term or permanent residential accommodation.</p> <p>Reason: To ensure a satisfactory standard of development.</p>
6.	<p>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 3 months of the date of this Order 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.</p> <p>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.</p>

7.	<p>The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City (St. Stephen's Green to Broombridge) in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid within 3 months of the date of this Order 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.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>
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Louise Treacy
Planning Inspector

7th April 2021