



An
Bord
Pleanála

Inspector's Report

ABP-308405-20

Development	Demolition of single storey house, construction of 2 storey extension for counselling and psychotherapy rooms.
Location	3&4 Main Street Lower, Dundrum, Dublin D14 KC90.
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D20A/0510
Applicant(s)	Mind and Body Works
Type of Application	Permission
Planning Authority Decision	Grant of Permission
Type of Appeal	Third Party
Appellant(s)	Ultan Carroll and others
Observer(s)	None
Date of Site Inspection	8 th January 2021
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site has an area of 0.0131 hectares and is located at Lower Main Street Dundrum, Co. Dublin.
- 1.2. The site is located within a two storey terrace of buildings of mixed use including office use, a funeral home, an auctioneer's shop and a charity shop.
- 1.3. The subject site comprises of buildings in the middle of the terrace - all of No. 3 and the upper floor of No. 4. Nos. 4-6 are currently in use as a funeral home.
- 1.4. The site is adjoined to the east by the Old Rectory Park residential development which is at a much higher level than the terrace of commercial buildings at Lower Main Street. There is an overgrown embankment between the houses at Old Rectory Road and the site. There is shared car parking for the commercial premises to the front. The Luas line is in very close proximity to the site.

2.0 Proposed Development

- 2.1. Permission is sought for the following:
 - Demolition of rear single storey outhouse and rear single storey return.
 - Provision of 2 storey rear extension to accommodate counselling and psychotherapy rooms and extension of staircase at 2nd floor level.
 - Provision of dormer window and conversion of attic to 4 No. child therapy rooms.
 - Change of use from existing offices throughout to counselling and psychotherapy use.
 - Alterations to shop front including new signage.
 - Alterations to first floor window openings and alterations to front façade.
 - Provision of new rooflights to existing front roof pane and associated ancillary works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Permission granted by the Planning Authority subject to 8 No. Conditions.

Noteworthy conditions include the following:

Condition 2

The glazing within the existing dormer at No. 3 Lower Main Street, and the proposed dormer at No. 4 Lower Main Street shall be fitted with manufactured frosted glass and this glazing shall be permanently maintained thereafter. The proposed window for the new staircase at second floor level shall be manufactured frosted or opaque glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.

Reason: In the interests of residential amenities.

Condition 3

The applicant will submit revised proposals for the external appearance of the front of the premises at first-floor level for the written agreement of the Planning Authority. Revisions shall include the retention of existing proportions of the window openings and the omission of an additional skin/ leaf of brickwork and fixing of faux granite quoins at first floor level.

Reason: In the interest of visual amenity.

All other conditions are of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planner's report considered that the principle of development was acceptable and that the development would not adversely impact on the amenity of adjacent properties by reason of overshadowing, overlooking, or overbearing appearance.

- It considered that there appeared to be discrepancies in the section drawings submitted- Drawing Nos. 07 and 08 as they do not appear to accurately show the change in levels of the rear gardens of the houses at Old Rectory Park, with the rear fence on lower ground rather than on top of the embankment. It considered that this did not impact on the assessment of the application as the site visit provided the necessary contextual information.

3.2.2. Other Technical Reports

3.2.3. **Transportation:** The applicant is not altering the vehicle access or parking area. No objection subject to conditions.

3.2.4. **Drainage:** No objection.

3.3. **Prescribed Bodies**

3.3.1. No reports.

3.4. **Third Party Observations**

3.4.1. A total of 5 No. observations were submitted to the Planning Authority. The issues raised are similar to the issues raised in the third party appeal.

4.0 **Planning History**

None on site.

D19A/0629

Permission granted for expansion of existing funeral home at Nos. 5 and 6 into the ground floor of No. 4.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Dun Laoghaire Rathdown 2016-2022. The site is zoned as 'MTC' which seeks 'To protect, provide for and/or improve major town centre facilities.'

5.2. Natural Heritage Designations

5.2.1. None relevant.

5.3. EIA Screening

5.3.1. Having regard to the nature of the development comprising of the change of use and extension to an existing premises, and the urban location of the site, 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.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Joint appeal submitted on behalf of Nos. 18 to 22 Old Rectory Park.
- The planner's report gives too much weight to the MTC Zoning and not enough to A Zoning – to protect and improve residential amenity.
- A previous application was refused on the site under 91A/1540 for a three storey extension on the grounds of overdevelopment of the site.
- Neither the existing vegetation between the properties, or Condition 2 which requires glazing of dormer windows can be relied on to remedy overlooking.
- Concern regarding overbearing appearance.

- Concern regarding noise.
- The main issues raised in the appeal could be addressed by placing the dormer windows to the front of the premises.

6.2. Applicant Response

The response submitted on behalf of the applicant can be summarised as follows:

- In relation to overlooking, Condition 2 of the grant of permission requires that all dormer windows and the new glass staircase window 'shall be fitted with manufactured frosted glass and this glass shall be permanently maintained thereafter.'
- The age range of children attending therapy ranges from toddlers to young teenagers. Mind and Body Works require the highest possible acoustic separation between therapy rooms and child therapy generates little noise. Windows and doors are closed to offer maximum privacy. There is little noise generated within the building and noise will not transmit to outside and be a cause of nuisance to nearby properties.
- It is considered that the third party appeal is vexatious and obstructive to the planning process given the level of interaction with neighbours of Old Rectory Park during the planning stages.
- When standing at the rear fence of No. 20, which is approx. 1m below ground level at the rear wall of the houses to Old Rectory Park, there is an uninterrupted view between the existing dormer window and the rear garden at an angle to the rear garden. Given the extent of existing vegetation and the location of trees, there is no view between the rear garden of No. 20 and the existing dormer window.
- It is proposed to use opaque glazing for both the existing and proposed dormer. Other properties in Old Rectory Park are not impacted by the existing dormer.
- It is proposed that windows to the proposed dormer will be fitted with restrictors to the opening sashes therefore preventing overlooking.

- The inaccuracies in the section drawings are acknowledged. Drawings have been updated to reflect the existing site levels. It is noted that the sloping nature of the western end of the rear gardens to Old Rectory Park does not materially impact the overlooking impact between the existing dormer window and windows to the rear of Old Rectory Park.

6.3. Planning Authority Response

- It is considered that the grounds of appeal do not raise any new issue which in the opinion of the Planning Authority would justify a change of attitude to the proposed development.

6.4. Observations

- None.

7.0 Assessment

7.1. The main issues that arise for consideration in relation to this appeal can be summarised as follows:

- Impact on Residential Amenities
- Noise Impact
- Other Matters
- Appropriate Assessment

7.2. Impact on Residential Amenities

7.2.1. The appeal raises concerns that the Planner's report gives too much weight to the zoning of the site and not enough to the impact on the residential amenity of the houses at Old Rectory Park. It is stated that the site is already at capacity and is difficult to get in and out of given the busy roads in the area. Concerns are also

raised in relation to overdevelopment of the site, overbearing appearance and overlooking.

- 7.2.2. The site is located within the zoning objective 'MTC' which seeks to protect, provide for and/or improve major town centre facilities and in which the proposed use is acceptable in principle. The lands are located in a transitional zonal area on the edge of Dundrum and in close proximity to existing residences.
- 7.2.3. The lands on which the houses at Old Rectory Road are built on a much higher level than the commercial premises at the main street. It is pointed out in the planner's report that the section drawings submitted with the application are incorrect with the rear fence on lower ground rather than on top of the embankment. I note that the appeal response acknowledges the inaccuracies and states that new drawings have been prepared in this regard however they are not attached to the appeal. It states that at the carrying out stage of the topographical survey, the presence of thick vegetation, existing trees and existing fences on the steep embankment limited the recording of site levels within the rear of Old Rectory Park. It notes that the sloping nature of the western end of the rear gardens does not materially impact the overlooking impact between the existing dormer window and windows to the rear of Old Rectory Park.
- 7.2.4. In terms of overlooking, the main concern relates to both the existing and proposed dormer windows together with the window serving the stairs at second floor level. There is an embankment between both properties under 'unknown' ownership which is presently very overgrown. I note that Condition 2 of the grant of permission by the Planning Authority requires that 'the glazing within the existing dormer at No. 3 Lower Main Street, and the proposed dormer at No. 4 Lower Main Street shall be fitted with a manufactured frosted glass and this glazing shall be permanently maintained thereafter.' It also required that the proposed window for the new staircase at second floor level shall be manufactured frosted or opaque glass and permanently maintained.
- 7.2.5. I am satisfied that there is already some overlooking by the existing dormer at this location and this is acknowledged by all parties. I consider that the provision of manufactured glazing to both the existing dormer window and the proposed dormer window to the rear of the property and to the stairwell window would address the

concerns raised regarding overlooking. I also note that it is proposed to fit window restrictors to the opening sashes of the dormer windows to prevent overlooking.

- 7.2.6. I do not consider that the proposed design is overdevelopment of the site or that it has an overbearing appearance. I note that the appeal refers to an application on this site which was refused for reasons including overdevelopment under D91A/1540. Having regard to the length of time since this history application on the site was decided and the changes to policy and design standards in the meantime, I consider that the current application should be examined in the context of current policy and standards. Whilst I note that the site is transitional and in close proximity to residences, I am satisfied that the extension and change of use proposed is acceptable on a site zoned as 'MTC' in a town centre location in Dundrum.

7.2.7. Noise Impact

- 7.2.8. Concerns are raised by the appellants in relation to the use of the entire top floor as a child play therapy space and the impact of noise arising from this use.
- 7.2.9. The response submitted by the applicant to this issue states that the maximum number attending any one therapy session is 3 or 4- therapist, one or two parents and one child. The appointments are staggered so as to allow setup and debriefing after each therapy session. Windows and doors to therapy rooms are closed so as to offer maximum privacy and there will be little or no noise transmission from these therapy sessions. Therapy sessions generate little noise and Mind and Body Works require the highest possible acoustic separation between therapy rooms including across floors and ceilings in order to generate a safe and secure environment for their clients.
- 7.2.10. The use proposed is very sensitive and private in nature and I am satisfied from the above response that the noise generated will be very limited. I am also satisfied that adequate measures will be in place to protect both the users of the service and adjoining residences.

7.3. Other Matters

- 7.3.1. I note that condition 3 of the Planning Authority requires the applicant to submit revised proposals for the first floor windows to include the retention of the existing proportions of the windows, the omission of additional window openings, the omission of an additional leaf of brickwork and fixing of granite quoins at first floor level.
- 7.3.2. I concur with the Planning Authority report that the wider terrace is largely consistent at first floor level. There is some variety, however where that exists, it looks out of place and detracts from the appearance of the terrace. If the Board is minded to grant permission, I consider that the inclusion of a similar condition to the Planning Authority would be helpful in terms of the overall appearance of the terrace in the interests of visual amenity.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the proposed development, the extension and change of use of an existing premises in a serviced urban area, and its distance to 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.

8.0 Recommendation

- 8.1. Having regard to the foregoing I recommend that permission be granted as follows:

9.0 Reasons and Considerations

- 10.0 Having regard to the provisions of the Dún Laoghaire-Rathdown County Council County Development Plan 2016-2022, the 'Major Town Centre' zoning objective of the site, and the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities

of the area. 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, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be modified as follows:

(a) The existing style of fenestration to the front of the premises shall be retained at first floor level to provide for two windows only of similar style and proportions to the existing window openings at this location.

(b) The glazing within the existing dormer at No. 3 Lower Main Street, the proposed dormer at No. 4 and the proposed window serving the stairwell shall be glazed with obscure glass.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual and residential amenity.

3. The external finishes of the proposed extension shall be the same as those of the existing premises in respect of colour and texture unless otherwise agreed in writing with the Planning Authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Water supply and drainage arrangements, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise and dust management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of traffic safety and to protect the amenities of the area.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: To protect the amenities of the area.

7. 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 prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the

application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Emer Doyle
Planning Inspector

21st January 2021