



An
Bord
Pleanála

Inspector's Report ABP-309147-21

Development	Permission is sought for the change of use of existing first floor restaurant to 1 No. 2 bedroom apartment together with all associated site works.
Location	Unit 2, First Floor, Main Street, Dunboyne, County Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	RA201495.
Applicant	Yewu Wu.
Type of Application	Planning Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant	Yewu Wu.
Observer(s)	None.
Date of Site Inspection	19 th day of March, 2021.
Inspector	P.M. Young.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.4. Prescribed Bodies	5
3.5. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Local Planning Context	5
5.2. Natural Heritage Designations	6
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Planning Authority Response	7
7.0 Assessment.....	8
8.0 Recommendation.....	12
9.0 Reasons and Considerations.....	12
10.0 Conditions	Error! Bookmark not defined.

1.0 Site Location and Description

- 1.1. The appeal site has a given area of 0.01515ha and relates to a first-floor unit in an existing mixed-use 2-storey modern commercial block that addresses the southern side of Main Street, Dunboyne, Co. Meath.
- 1.2. It's given current use is as a restaurant related to the 'Ho Wun' Chinese Restaurant & takeaway that is currently operating as a takeaway from the unit directly below. The commercial block also contains an 'NCB – Charity Shop' immediately adjoining it at ground floor level and 'Koyla' – Indian Restaurant at immediately adjoining it at first floor level.
- 1.3. Access to this building is via a restricted in width lane that extends the length of the eastern elevation to where it meets a hard surfaced shared space which appears to be used for parking and waste storage.
- 1.4. This building forms part of an 'Architectural Conservation Area' though it is a relatively recent addition to its streetscape scene and is of no particular architectural or other merit. It opens immediately onto the public footpath and the adjoining roadside accommodates on-street parallel parking together with a yellow hatched box immediately alongside the entrance to the aforementioned lane.

2.0 Proposed Development

- 2.1. Planning permission is sought for the change of use of existing first floor restaurant to 1 no. 2 bedroom apartment using existing front entrance/stairs from Main Street with rear fire escape stairs. Alterations at first floor to allow for courtyard garden, replacement of existing windows front & rear and all associated site works to allow for change of use. Total floor area of works is 151.5m².

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority **refused** planning permission for the proposed development for the following single stated reason:

“The proposed development, as submitted represents a substandard design and if permitted, would seriously injure residential amenity of the occupants of the development proposed, and would establish an undesirable precedent for similar developments of this kind and would be contrary to the proper planning and sustainable development of the area”.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **Planning Officer’s report** is the basis of the Planning Authority’s decision. It includes the following comments:

- The principle of the development on ‘B1’ zoned land is acceptable.
- Concerns are raised in relation to the adequacy of the drawings submitted.
- Concerns are raised in relation to the inadequate window provision for light and ventilation; the lack of storage for bins and bicycles; two windows are blocked by external vents serving the restaurant and takeaway at ground floor level; the lack of car parking to serve this unit.
- This proposal would not result in any adverse impact on the ACA or any Protected Structures in its vicinity.
- The applicant was granted a Part V in relation to the development sought.
- The proposed development is exempt from Section 48 contributions.
- The design is considered to be substandard and provides poor private amenity space for future occupants.

This report concludes with a recommendation for refusal.

3.3. Other Technical Reports

- 3.3.1. **Environment:** From a flood risk perspective, the development site is situated in Flood Zone C and involves a change of use to an existing building at first floor level. The probability of flooding is less than 0.1% and therefore at low risk of flooding. From a flood risk perspective, no objection is raised to the proposed development.

3.4. Prescribed Bodies

3.4.1. None.

3.5. Third Party Observations

3.5.1. None.

4.0 Planning History

4.1. Site

- **P.A. Ref. No. DA30466:** Planning permission was **granted**, subject to conditions, for a change of use of ground floor from restaurant to takeaway and first floor from office to restaurant.
- **P.A. Ref. No. DA20185:** Planning permission was **granted**, subject to conditions, for changes to plans that were previously permitted under P.A. Ref. No. 01/422 consisting of a change of use to cafeteria use from retail together with internal building works including public counter area, seating area, kitchen, and toilets.
- **P.A. Ref. No. 01/422:** Planning permission was **granted**, subject to conditions, for the demolition of an existing cottage and outbuildings together with the construction in their place of two retail units at ground floor with commercial space over with off street parking to the rear.

5.0 Policy Context

5.1. Local Planning Context

5.1.1. The Meath County Development Plan, 2013 to 2019, is the applicable County Development Plan.

5.1.2. The site itself forms part of the development boundary of Dunboyne which is designated a '*Large Growth Town II*' under the County's Settlement Hierarchy Centres. Dunboyne is also a linked Secondary Economic Growth Centre with Ashbourne.

- 5.1.3. The site under the said Plan is zoned 'B1' (Commercial/Town or Village Centre). The objective for such land is stated as "*to protect, provide for and / or improve town and village centre facilities and uses*". On such land is intended to accommodate new commercial and retail uses. The list of permitted land uses for 'B1' zoned land includes residential.
- 5.1.4. The site also lies inside of the boundaries for Dunboyne's Architectural Conservation Area.

5.2. Natural Heritage Designations

- 5.2.1. This appeal site does not form part of, nor does it adjoin or neighbour any Natura 2000 sites. The nearest such site is the Special Area of Conservation: Rye Water Valley/Carton SAC, which is situated c5.3km to the south of the site at its closest point.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of this First Party appeal can be summarised as follows:
- The subject property has been vacant for some time.
 - Reference is made to the planning history of the site.
 - National planning policy seeks to accommodate population increases within the existing footprint of towns and cities as far as possible. This can be achieved by increasing densities and heights in order to make better use of serviced land. The proposed development is therefore in keeping with national policy.
 - This site has the capacity to absorb the proposed 2-bedroom dwelling.
 - The decision of the Planning Authority to refuse permission is without planning merit. They have failed to consider the original use of the site as residential or the planning precedent in the area.
 - Schemes such as 'Living Over the Shop Scheme' have long been promoted.
 - Turning the first-floor level into residential would set a good planning precedent.

- This development would not give rise to any adverse amenity impact on adjoining properties.
- The design and layout of the proposed development is consistent with the character of the area and meets local planning housing guidelines.
- This proposal is in keeping with the zoning objective for the site.
- Small adjustments to the scheme are put forward under this appeal submission to the Board. These adjustments result in this 4-person 2-bedroom apartment unit having two double bedrooms with floor areas of 14m² and 18m², respectively. This is in excess of the Sustainable Urban Housing: Design Standards for apartments which requires 11.4m². In addition, the kitchen and living area, the storage and the floor area also exceeds requirements of the said guidelines.
- The revised layout addresses the concerns raised around dual aspect.
- The floor to ceiling height of 2.7m facilitates a future change of use.
- The revised layout of the private amenity space excludes views to the courtyard by way of opaque glazing at 1.8m height. This will enhance the amenity of the occupants as well as allow for adequate sunlight into the unit.
- There are bin and bicycle parking can be accommodated on the site in the shared rear yard with one car parking space designated to each unit.
- The amendments are minor in nature and overcome the concerns of the Planning Authority.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- The Planning Authority has noted the changes proposed by the appellant in their appeal submission to the Board and whilst they have provided minimum standards in accordance with the Design Standards for New Apartment Guidelines, 2018, there is a lack of natural light provided to the apartment and vents block the windows to the rear of the proposed apartment.
- All other matters raised by the appellant in their appeal submission have been already considered.

- Reference is made to the Planning Officer's Report.
- The Board is requested to uphold its decision in this case.

7.0 Assessment

7.1. Introduction

- 7.1.1. Having read the file, conducted an inspection of the site and its setting alongside having had regard to all relevant planning provisions I am satisfied that the main issues raised in this case are those raised in the grounds of refusal by the First Party Appellant.
- 7.1.2. I consider that these issues centre on the Planning Authority's reasons for refusal of the proposed change of use of the upper floor area of a restaurant to use as a single two-bedroom apartment unit together with all associated site works. In this regard, I note that the proposed development was refused permission by the Planning Authority based on their consideration that the scheme as submitted represented a substandard design residential scheme that, if permitted, would seriously injure the residential amenities of future occupants, and would set an undesirable precedent for other similar developments.
- 7.1.3. I propose to deal with these matters under the following broad headings in my assessment below:
- Principle of the Proposed Development/Site Context
 - Residential Amenity
- 7.1.4. In addition, the matter of 'Appropriate Assessment' also requires examination.
- 7.1.5. For clarity I note to the Board that my assessment below is based on the scheme as revised by the applicant in their submission to the Board. I consider that the revisions that it puts forward to be modest in nature and do not significantly change the proposed development as originally sought.

7.2. Principle of the Proposed Development

- 7.2.1. The proposed development is located in an area zoned 'B1' - Commercial/Town or Village Centre) under which residential development is permitted in principle subject to safeguards under the Meath County Development Plan, 2013 to 2019.

- 7.2.2. In addition to this I note that the appeal site forms part of a building that is located in a designated Architectural Conservation Area. The building itself is a relatively recent addition to the streetscape scene of this Architectural Conservation Area and is of limited architectural merit. There are no significant works or improvements proposed under this application that would add too or diminish this buildings contribution to the intrinsic character and qualities of this Architectural Conservation Area.
- 7.2.3. Though I do acknowledge that ensuring that the upper floor levels of buildings within settlements are maintained in viable land uses adds to the overall vitality and vibrancy of their streetscape scenes. With the subject unit itself occupying a visible location on the Main Street of Dunboyne addressing a triangle of open space that provides a level of amenity space within the town itself. The use and pride for this space was very noticeable at the time of my inspection with it being a focal point for a visual celebration of St. Patricks Day with the space uniquely and attractively decorated. Though bound by roads on all side and limited in size this space obviously could be enjoyed by any future occupants living within the centre of Dunboyne or within walking distance.
- 7.2.4. In relation to this proposal, I consider that the proposed development would give rise to no adverse visual and/or built heritage amenity impacts were it to be permitted alongside the opaque glazing now proposed for the private space amenity along the western elevation of the building would not be highly visible in its context and possibly would break the visual monotony of this elevation as appreciated from the public domain.
- 7.2.5. Based on the above, I consider that the of the proposed development is therefore acceptable, subject to safeguards.

7.3. Residential Amenity

- 7.3.1. On the matter of residential amenity, I consider that the proposed development would not give rise to any diminishment of residential amenity of properties in its vicinity with its surrounding context characterised by its town centre location with its wide and varied mixture of land uses.
- 7.3.2. However, in terms of residential amenity for future occupants I raise concerns that the proposed development does not represent an innovative design response to the constraints of this first floor level unit which forms part of a larger building that at ground and first floor level contains a mixture of restaurant, takeaway, and retail use.

Moreover, the redline area consists of Unit 2 only and it excludes in my view the rear yard area as well as ground floor access points for consideration despite the appellant in their appeal indicating that the space to the rear is shared and within which bicycle through to waste storage could be provided for future occupants of the proposed apartment, yet the revised drawings make no provision of the same.

- 7.3.3. In relation to car parking provision the Development Plan sets out that all apartments require 1.25 spaces for an apartment unit of the bedroom number proposed alongside the provision of 1 space for every four apartments. As such the car parking space requirement of the proposed development is 1.5. Whilst I accept an argument could be made that the apartment unit is centrally located within the settlement of Dunboyne and within easy walking distance of amenities as well as services that a contribution for the same might be acceptable it is of a concern that there is no designated space within the yard area for use of the future occupants whether that be the provision of a car parking space, bicycle space through to storage. Moreover, there is poor access provided from the ground floor level whether that be in terms of the shared access to the rear and to the front of the building. I consider both forms of access to be highly restricted and of a poor standard.
- 7.3.4. In addition to this natural light and ventilation is poorly considered for the proposed long and restricted in width apartment unit proposed with the minimal window openings that are existing to the rear being located where existing ventilation and mechanical extraction is in place to deal with odours, fumes and the like from the restaurant and takeaway unit that would operate from ground and first floor level.
- 7.3.5. There is no robust evidence in the documentation submitted to suggest that the level of ducting and the like that obstructs the windows would be modified or indeed could be modified in a site appropriate manner. Further there is no assurance that the design has had any regard that nuisance arising from the other uses would be attenuated. In particular noise, vibrations, malodours, hours of operation and the like which in such a constrained building together with the substandard design put forward have the potential to adversely impact upon future occupants' quality of internal amenity.
- 7.3.6. Whilst there appears to be minimal opportunities present to provide side windows through the side elevation of the apartment, no consideration has been given to potential for roof lights to supplement the significant lack of light and air into what would

be a long and narrow apartment unit or indeed internal reconfiguration of the interior spaces. Nor would it appear that any mechanical supplemental ventilation would be provided to enhance the living conditions for future occupants of the proposed apartment.

7.3.7. In terms of the proposed internal courtyard private amenity space, I consider that this would provide limited additional light and ventilation into the proposed apartment unit and I further consider these deficiencies are also present in the design of this amenity space which would result in it being of poor qualitative amenity value for future occupants.

7.3.8. Based on the above, I concur with the Planning Authority's reasons for refusal in that the proposed development is substandard and, if permitted, it would give rise to poor quality amenities for future occupants and in doing so it could give rise to other similar developments where relaxation of design standards is also advocated for existing buildings as opposed to providing more qualitative design approaches to achieve a qualitative standard of future amenities for occupants.

7.4. **Appropriate Assessment**

7.4.1. Having regard to the modest nature, scale and extent of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location remote from and with no hydrological pathway to any European site, no appropriate assessment issues arise and it is not considered that the proposed development which essentially consists of works to the first floor level of an existing building would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.5. **Other Matters Arising**

7.5.1. **Flooding:** I concur with the Planning Authority in their conclusions with regards to flood risk.

7.5.2. **Development Contributions:** The proposed development is exempt from Development Contributions under the current Meath County Development Contribution Scheme, 2016 to 2021, as amended.

8.0 Recommendation

8.1. I recommend that permission be **refused**.

9.0 Reasons and Considerations

1. Having regard to the design and layout of the proposed development, which is for the change of use of part of an existing restaurant unit to a two bedroom apartment unit, its considered that the proposed development would give rise to substandard residential amenities for future occupants, due to relationship of the apartment unit with the restaurant, takeaway and retail use also accommodated within the envelope of this building; the lack of adequate natural light and ventilation to the interior spaces of the proposed apartment unit; the lack of measures to mitigate and attenuate nuisances that would arise, particularly from the restaurant and takeaway use through to the lack of adequate amenities including a qualitative private amenity space and access to off-street car parking, external waste storage and bicycle storage. It is therefore considered that the proposed development would thereby constitute a substandard form of development which would seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

25th day of March, 2021.