



An
Bord
Pleanála

Inspector's Report

ABP-312868-22

Development	Change of use from retail to guesthouse. 3 bedrooms on floor 1,2 and 3. 1 apartment on 4th floor. Construction of a lift shaft, link lobby and dormer extension to attic level, 3 rooflights to front elevation and associated site works.
Location	39 - 40 Mary Street, Dungarvan
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	21503
Applicant(s)	Michael Ryan
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First Party
Appellant(s)	Michael Ryan
Observer(s)	None
Date of Site Inspection	20.02.23

Inspector

Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located within Dungarvan town centre in County Waterford.
- 1.2. The site comprises a terraced four storey building, with two ground floor commercial units and accommodation/storage space in the floors above. The building is a protected structure RPS no. 118. To the rear of the street where the building is located is a public car park.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Change of use of existing building from retail to guesthouse containing reception area at ground floor, 3 no. ensuite bedrooms on 1st, 2nd and 3rd floors, and a 1 bed studio apartment on the third floor.
 - Construction of a lift shaft, link lobby, and dormer extension to attic level, all on the rear elevation and for the provision of 3 no. rooflights on the front elevation.

3.0 Planning Authority Decision

3.1. Decision

Permission GRANTED, subject to 12 conditions, including the following:

C1(b): The box dormer and the upper section of the lift shaft providing access to the penthouse area are expressly omitted from the development by virtue of this condition, the existing rear roof profile shall be maintained in its current form.

C2: Prior to the commencement of development, the applicant shall submit revised details for the written approval of the Planning Authority demonstrating:

(a) The box dormer and the upper section of the lift shaft providing access to the penthouse area omitted from the development with the existing rear roof profile maintained in its current form, two roof lights may be incorporated into the roof plane to serve this area subject to details being submitted and agreed in writing with the Planning Authority prior to the commencement of development.

(b): The number of rooflights to the front elevation shall be reduced to two and shall be symmetrically located on the roof.

The revised lift shaft design and all finishes should be agreed in advance of submission with Waterford City and Council Council's Conservation Officer and carried out in accordance with the agreed details.

C3: ...Individual rooms shall not be let for occupation on a full time basis.

C6: Finishes.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was requested in relation to the following matters: request for an Architectural Heritage Impact Assessment; revised design for the proposed lift shaft and dormer to the rear of the building; request to address parking requirements; request to address bin storage location; details in relation to signage.

Following receipt of further information, a notification of a grant of permission was issued subject to conditions. I note the following from the planners report:

- The applicant in response to FI in relation to the design, altered the design of the extension in terms of its size and position. There was approximately 2/3 of the rear façade covered in the original proposal and the new design is stated by the applicant to encroach only on 1/3 of the rear façade which mitigates the impact.
- The Conservation Officer considers the lift shaft and dormer to be very dominant from an area which is visible from the public realm and a very busy car park within the ACA and does not harmonise with the building or its setting and as proposed would present as a silo like feature. It is recommended that the upper floor be omitted. A condition is recommended to include a modification of the lift shaft, roof profile and rear elevation.

3.2.2. Other Technical Reports

Conservation Officer Report – Report, dated 21st January 2022, raises concerns in relation to the upper floor penthouse and upper section of the structure to contain the

lift shaft, both of which should be omitted and the number of rooflights on front elevation should be limited to two and symmetrically located.

Senior Executive Engineer – Report, dated 30.06.21, requests details be provided in on waste storage facilities.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

None relevant.

5.0 **Policy Context**

5.1. **National Policy**

- Project Ireland 2040 National Planning Framework (2018)
- The Regional Spatial and Economic Strategy for the Southern Region 2020-2026 (2020)
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)

5.2. **Waterford City and County Development Plan 2022-2028**

Waterford City and County Development Plan 2022-2028 came into effect on 19th July 2022. The Development Plan for the amalgamated Waterford City and County administrative area, supersedes the previous separate City, County and Dungarvan Town Development Plans and relevant Local Area Plans.

- Table 2.2 Settlement Hierarchy and Typology - Dungarvan is identified as a Key Town.

- Zoning TC, Town Core, to provide for the development and enhancement of town core uses including retail, residential, commercial, civic and other uses.
- RPS no. DV740118, 39-41 Saint Mary Street, Residential/Commercial. NIAH no. 22821114.
- Regeneration and Opportunity Site DTOS03, Car Park St Augustine Street.
- Dungarvan Architectural Conservation Area.
- Core Retail Area of Dungarvan Town.
- Policy BH05 – Architectural Conservation Areas
- Policy BH10 – Building Adaptation
- Policy BH11 – Maintaining and Enhancing Special Character
- Policy BH12 – Settings and Vistas
- Policy BH14 – Retaining Built Fabric
- Appendix 9 – Record of Protected Structures
- Appendix 10 – Architectural Conservation Areas

5.3. **Natural Heritage Designations**

The nearest natural heritage designations are Dungarvan Harbour SPA (004032); Dungarvan Harbour pNHA (00063); Helvick Head to Ballyquin SPA (004192); Helvick Head SAC (000665); and Helvick Head pNHA (000665).

5.4. **EIA Screening**

Having regard to the minor nature and scale of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, 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

A first party appeal against Condition no. 1b and Condition no. 2a has been lodged. The appeal is summarised as follows:

- Both conditions require the removal of the box dormer and uppermost section of the lift shaft serving the top floor.
- Revised image submitted shows the proposed extension is lower than the existing ridge line, which was unclear in previous image.
- To reduce the visual impact, it is now proposed to clad the lift shaft and box dormer entirely from glass. A 3D image is attached.
- Precedent for similar extension to rear of Irish Architectural Archive (IAA) at no. 45 Merrion Square East, which is also a protected structure.

6.2. Planning Authority Response

- PA and Conservation officer have reviewed revised proposal.
- Note comparison of proposal with the constructed extension to the Irish Architectural Archive building, however, that development differs from this in terms of scale and design.
- Serious concerns in relation to lift shaft which extends to just below ridge line of building and also concerned in relation to inclusion of a large box dormer to the rear of the building. These elements should be omitted to protect the visual integrity of the building and its setting within the wider public realm. Recognise that a glass finish is preferred over previous proposed cladding.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

Waterford City and County Development Plan 2022-2028 came into effect on 19th July 2022. I note the Planning Authority's assessment of this application was undertaken under the previous development plan, Dungarvan Town Development Plan 2012-2018, as extended, which was also in force at the time of the appeal submission. I assess hereunder the appeal having regard to the operative development plan, namely Waterford City and County Development Plan 2022-2028, which has superseded the Dungarvan Town Development Plan 2012-2018.

7.1. Appeal Against Condition

- 7.1.1. The first party has appealed Condition 1b and 2a only of the Planning Authority decision to grant permission. The conditions state as follows:

C1b: The box roof dormer and the upper section of the liftshaft providing access to the penthouse area are expressly omitted from the development by virtue of this condition, the existing rear roof profile shall be maintained in its current form.

C2: Prior to the commencement of development, the applicant shall submit revised details for the written approval of the Planning Authority demonstrating:

- a) The box roof former and the upper section of the liftshaft providing access to the penthouse area omitted form the development with the existing rear roof profile maintained in its current form, two roof lights may be incorporated into the roof place to serve this area subject to details being submitted and agreed in writing with the Planning Authority prior to the commencement of development.

- 7.1.2. Section 139 of the Planning and Development Act 2000 (as amended) provides that where an appeal against a condition of permission is brought before the Board and the Board is satisfied, having regard to the nature of the condition or conditions, that

the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted, then the Board may direct the Planning Authority to attach, amend or remove the condition or conditions to which the appeal relates or other conditions.

- 7.1.3. Having regard to the nature of the development proposed which is within the town centre zoning, and the condition subject of this appeal, I consider a de novo consideration of the proposal is not warranted and I recommend the Board should use its discretionary powers under Section 139 of the Planning and Development Act 2000 (as amended), and restrict its consideration to the terms of condition no. 1(b) and 2(a).

7.2. Condition no. 1b and no. 2a

- 7.2.1. The first party argues that subject to the cladding being changed to glass, as now proposed as part of this appeal, that the proposed lift shaft and dormer window should be retained. It is stated that due to the previous proposed cladding finish and the camera angle, the lift shaft appeared to rise above the existing roof level, whereas the proposed extension is actually lower than the existing ridge line. A revised photomontage is submitted as part of the appeal.
- 7.2.2. The PA remains of the opinion that notwithstanding the improvement of the finishes proposed, the proposed lift shaft and dormer window would affect the visual integrity of the building and its setting within the wider public realm.
- 7.2.3. The proposed development relates to a protected structure, which is within an ACA. The development is to the rear of the building, which backs onto a public car park located in the centre of this perimeter block. The car park is identified in the operative development plan as a regeneration and opportunity site for development.
- 7.2.4. I have reviewed all submissions made including the proposed revision to the finishes of the lift shaft and dormer element as submitted as part of this appeal and I have had regard to the operative development plan, including all policies related to protected structures and ACAs.
- 7.2.5. I note from site inspection other buildings have been extended to the rear, as can be seen from the existing car park and street to the rear of the site and some extensions are more sympathetic than others. This building appears to be the tallest

building in this block. I note the extent of the proposed rear lift shaft and dormer relative to the ridge line of the building, and having regard overall to the proposed design and to the character and scale of the existing structure, I consider the overall scale and height of the lift shaft to be excessive and this element in addition to the rear dormer box element would be overbearing and would detract significantly from the character of the existing building and from the wider ACA. I have considered the proposal in the context of the IAA rear extension as referred to in the grounds of appeal, however, I recognise that this site differs from that on Merrion Square in terms of its scale and context, and each site must be assessed on its own merits. Overall, I consider this proposal would not visually integrate with the protected structure and the wider ACA, therefore I recommend conditions 1b and 2a should be retained as they adequately address the design issues raised.

7.3. Appropriate Assessment

- 7.3.1. Having regard to the nature and scale of development proposed and the nature of the receiving environment, namely an urban and fully serviced location, 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

Having regard to the nature of the conditions the subject of the appeal and based on the reasons and considerations set out below, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to RETAIN condition number 1b and condition number 2a and the reasons therefor.

9.0 Reasons and Considerations

It is considered, that having regard to:

- (a) the provisions of the Waterford City and County development Plan 2022-2028
- (b) the status of the building as a protected structure and the location of the building within Dungarvan ACA,
- (c) the nature, scale and design of the proposed lift shaft and dormer, and
- (d) the pattern of development in the area,

that conditions 1b and 2a are warranted and should be retained.

Una O'Neill
Senior Planning Inspector

28th February 2023