



An
Bord
Pleanála

Inspector's Report

ABP-317310-23

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| Development | Retention permission is sought for the change of use of approximately 48sqm of ground floor space from commercial to residential use. |
| Location | 25 Bellevue Avenue, Glenageary, Dublin. |
| Planning Authority | Dun Laoghaire Rathdown County Council |
| Planning Authority Reg. Ref. | D23A/0202 |
| Applicant(s) | Tara Doyne |
| Type of Application | Retention permission. |
| Planning Authority Decision | Refuse |
| Type of Appeal | First Party |
| Appellant(s) | Tara Doyne |
| Observer(s) | None |
| Date of Site Inspection | 8 th September 2023 |
| Inspector | Sarah Lynch |

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1.0 Site Location and Description

- 1.1. The subject site is within a corner unit of a semi-detached pair of properties that typically contain residential at first floor and commercial at ground floor within a parade of shops located within Bellevue Avenue. The area subject to this appeal is located on the ground floor which is currently utilised for residential development. The remaining units in this double block of semidetached residential over commercial development are utilised for a creche and dog groomers with residential at first floor. Parking is provided off street in the form of an indented area in front of the units and the overall layout is typical of the traditional living over shop unit within a residential area.

2.0 Proposed Development

- 2.1. Retention permission is sought for the change of use of approximately 48sqm of ground floor space from commercial to residential use.

3.0 Planning Authority Decision

3.1. Decision

Dun Laoghaire Rathdown County Council determined to refuse permission for the proposed development for the following reasons:

1. Having regard to the location of the development proposed for retention on lands zoned NC which seeks to 'protect provide for and or improve mixed use neighbourhood centre facilities', the limited number of commercial units within the principle parade of this Neighbourhood Centre and the permission for retention of the conversion / change of use of the ground floor area of the vacant commercial unit to residential, it is considered that the development proposed for retention does not provide for an active street frontage or an appropriate mix, range or type of use at this Neighbourhood Centre location. The development proposed for retention would be contrary to policy objective RET7: Neighbourhood Centres and Policy Objective RET11 Active Street Frontages Non-Retail uses of the Dún Laoghaire Rathdown County Development Plan 2022-2028. Furthermore, the development to be retained would if permitted set

an undesirable precedent for similar development in the area. The proposed development for retention would therefore be contrary to the NC zoning, the provisions of the Dún Laoghaire Rathdown County Development Plan 2022-2028 and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planners report is consistent with the decision of the planning authority.

3.2.2. Other Technical Reports

Drainage – no objections

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

SA/60017 – Exempted development change if use to one 3 bed unit granted 2021.

Adjacent Site

D17A/0348 – Permission was granted for a change of use from retail to creche with associated alterations.

5.0 Policy Context

5.1. Development Plan

Dún Laoghaire Rathdown County Development Plan

- Site is located within an area zoned NC which seeks to ‘protect and provide for and / or improve mixed use neighbourhood centre facilities’.

- Chapter 7 Towns, Villages and Retail Developments
 - Policy RET7 Neighbourhood Centres - It is a Policy Objective of the Council to support the development of the Neighbourhood Centres as the focal point of the communities and neighbourhoods they serve, by way of the provision of an appropriate mix, range and type of uses – including retail and retail services – in areas zoned objective ‘NC’ subject to the protection of the residential amenities of the surrounding area.
 - Policy Objective RET11: Active Street Frontages Non-Retail Uses It is a Policy Objective of the Council to control the provision of non-retail uses at ground floor level in the principal shopping streets of Major Town Centres and District Centres and also within the shopping parades of mixed-use Neighbourhood Centres.

Development in Neighbourhood Centres should ensure an appropriate mix of commercial uses, ensuring that there is not any overconcentration of a particular use class. Uses should be appropriate in scale and nature to the Neighbourhood Centre designation.

The plan recognises the importance of Neighbourhood centres in creating vibrancy within communities.

5.2. **Natural Heritage Designations**

5.3. The Nearest Natura 2000 sites include Dalkey Islands SPA c. 2.36km east of the site and Rockabill to Dalkey Island SAC which is c. 2.4km east of the site.

5.4. **EIA Screening**

5.5. The proposed development is not of a class for the purpose of EIA.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal have been prepared by Niall Fitzpatrick on behalf of the applicant and are summarised hereunder:

- Applicant was of the understanding that the change of use was exempt.
- Policy referred to within the reasons for refusal is not applicable as it relates to the protection of retail and property has not been used as retail previously.
- Unit is unable to compete with larger retail units located within other centres 700-900 metres away.
- Property was vacant for 2 years.
- Residential use of property has brought the building into use and maintains the vitality of the area.

6.2. Planning Authority Response

- No new issues arise.

6.3. Observations

- None

7.0 Assessment

7.1. As outlined above the appeal site is located within an area zoned NC which seeks to 'protect and provide for and / or improve mixed use neighbourhood centre facilities'.

7.2. I have reviewed the documentation submitted with the appeal, carried out a site inspection and reviewed the grounds of appeal as outlined above and I consider that the substantive issue for consideration before the board relate solely to the reason for refusal of the retention permission and the consequential non-compliance of the development with the provisions of Dún Laoghaire Rathdown County Development Plan 2022-2028.

- 7.3. It is contended by the applicant within the grounds of appeal that provisions of the zoning objective for the proposed development relate to the protection of retail development. In this regard the grounds of appeal outline that the unit has not been used for retail and the residents in the area are better served by other neighbourhood centres which have a larger offering of retail premises. It is also contended that this unit has been vacant for 2 years and it is unlikely that the development would be utilised in the future given its limited size and the proximity to larger more retail offerings in other nearby centres.
- 7.4. It is further contended that the proposed development is not contrary to RET 11 which relates to the provision of active street frontages. It is argued that the use of the building which was previously vacant ensures that the building is active and in use thus maintaining the vibrancy of the area.
- 7.5. The grounds of appeal also refer to instances whereby previously commercial ground floor units have been repurposed for residential development. I have reviewed these examples and note that the situations either refer to the demolition of units for completely new development or the location of the sites referred to are within different types of locations compared to the subject site. It is also of note that these developments were considered under the previous Dún Laoghaire Rathdown County Development Plan and have not been subject to consideration under the policies and objectives of the current plan.
- 7.6. With regard to the reason for refusal I note that Council refers to RET7 and RET11 within the reason for refusal, I have reviewed both policy objectives and consider policy objective RET11 to be of particular relevance to the assessment of this development. Accordingly, I draw the Board's attention to the wording of this policy objective in which it is clearly stated that 'It is a Policy Objective of the Council to control the provision of non-retail uses at ground floor level in the principal shopping streets of Major Town Centres and District Centres and also within the shopping parades of mixed-use Neighbourhood Centres'. The Board should note that the appeal site is located within a mixed-use neighbourhood centre and is zoned accordingly, i.e subject to the NC zoning objective.
- 7.7. As mentioned above there are existing businesses located within this small parade of units. There is no ambiguity within the policy objective pertaining to development within

such areas and the intention of the Council is clear in this regard that there is a presumption in favour of retaining these units within such neighbourhood centres. I am therefore satisfied that the proposed retention permission would clearly be contrary to this policy objective and therefore the provisions of the Dún Laoghaire Rathdown County Development Plan in this regard.

- 7.8. Having regard to the foregoing the situation is clear, the removal of the ground floor commercial unit within this site which is subject to the NC zoning objective and policy objective RET11 would be contrary to the provisions of the Dun Laoghaire Rathdown County Development Plan 2022-2028 and as such I am left with no option but to recommend that the proposed retention development is refused for this reason.

8.0 Recommendation

- 8.1. I recommend that permission is refused for the following reason.

1. The proposed development for retention is located within an area zoned NC within the Dún Laoghaire Rathdown County Development Plan 2022-2028 which seeks to protect provide for and or improve mixed use neighbourhood centre facilities. Development in such areas is subject to policy objective RET 11 of the Dún Laoghaire Rathdown County Development Plan which seeks to control the provision of non-retail uses at ground floor level in the principal shopping streets of Major Town Centres and District Centres and also within the shopping parades of mixed-use Neighbourhood Centres. This is reasonable. The introduction of a residential use within the ground floor of this parade of units within an area subject to the NC zoning objective would therefore be contrary to the provision of the Dún Laoghaire Rathdown County Development Plan 2022-2028, specifically policy objective RET11 and would therefore be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has

influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Sarah Lynch
Senior Planning Inspector

10th September 2023