



An  
Bord  
Pleanála

## Inspector's Report ABP318028-23

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| <b>Development</b>                  | Permission for amalgamation of Units 601 and 602 to provide for a single unit for use as a health centre/clinic                  |
| <b>Location</b>                     | Units 601 and 602, Block V, The Charlestown Centre, Charlestown Place and Saint Margaret's Road, Charlestown, Dublin 11 D11 PC9W |
| <b>Planning Authority</b>           | Fingal County Council  |
| <b>Planning Authority Reg. Ref.</b> | FW23A/0196   |
| <b>Applicant(s)</b>                 | Rosnaree Property Limited  |
| <b>Type of Application</b>          | Permission   |
| <b>Planning Authority Decision</b>  | Refuse Permission  |
| <b>Type of Appeal</b>               | First Party  |
| <b>Appellant(s)</b>                 | Rosnaree Property Limited  |
| <b>Observer(s)</b>                  | None   |
| <b>Date of Site Inspection</b>      | 9 <sup>th</sup> November 2023  |
| <b>Inspector</b>                    | Andrew Hersey  |

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## 1.0 Site Location and Description

- 1.1. The subject site is located at the Charlestown Centre, Charlestown, Dublin 11 and comprises of two existing ground floor commercial units, 601 and 602.
- 1.2. These units face onto a mixed use public street with a cinema located to the northeast, a gated apartment complex to the south. Charlestown Shopping Centre is located at the end of the street to the east
- 1.3. The building in which the units are located is a 5-storey building with apartments from the first floor to the fifth.

## 2.0 Proposed Development

- 2.1. The proposed development comprises of the following: Permission for
  - The amalgamation of Units 601 and 602 (currently vacant) to provide a single unit of 323sqm gross floor area for use as a health centre/ clinic providing medical and health related services.
  - Associated elevational changes, tenant signage and
  - All associated site and development works.

## 2.2. Decision

Refuse Permission for the following reason:

*The proposed development would remove a permitted communal facility to serve residents of the approved apartment development. The proposed development would adversely impact the residential amenities of this apartment development, would contravene materially Objective DMSO6 and be contrary to Policy SPWHP35 of the Fingal County Development Plan 2023- 2029, set a poor precedent for other similar development and would therefore be contrary to the proper planning and sustainable development of the area.*

## 2.3. Planning Authority Reports

### 2.3.1. Planning Reports

2.3.1.1. The report of the Planning Officer (dated 21<sup>st</sup> August 2023) reflects the decision of the planning authority

### 2.3.2. Other Technical Reports

2.3.2.1. Transportation Planning Section (30<sup>th</sup> June 2023)

- No objection to proposed development

### 2.4. Submissions/Observations

- None received

## 3.0 Planning History

### 3.1. On Site

3.1.1. Reg. Ref.FW22A/0105:Permission refused by Fingal County Council for change of use of Unit 602 from communal residents' room (vacant) to cafe/restaurant use (including preparation of hot food for consumption off the premises), elevational changes associated with tenant signage, air extraction and ventilation units and all associated site and development works at Unit 602, Block V, The Charlestown Centre, Charlestown Place and S.t Margaret's Road, Charlestown, Dublin 11, D11 PC9W. The reason for refusal was:

*The proposed development would remove a permitted communal facility to serve residents of the approved apartment development. The proposed development would adversely impact the residential amenities of this apartment development, would contravene materially Objectives DMS34, DMS04 and Charlestown and Meakstown 1 of the Fingal County Development Plan 2017-2023, set a poor precedent for other similar development and would therefore would be contrary to the proper planning and sustainable development of the area.*

This application is currently on appeal with the Board

3.1.2. Reg. Ref. FW22A/0107:Permission granted for change of use of Unit 601 from retail unit (vacant) to licensed restaurant use (including preparation of hot food for

consumption off the premises, home deliveries and collection), elevational changes associated with tenant signage, air extraction and ventilation units and all associated site and development works.

## **4.0 Policy and Context**

### **4.1. Development Plan – Fingal County Development Plan 2023-2028**

- 4.1.1. The Fingal County Dublin Development Plan 2023-2028 is the relevant County Development Plan for the area.
- 4.1.2. The site is zoned with the objective 'TC' Town Centre which is "To protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities"
- 4.1.3. Objective CIOS025 - Healthcare Facilities: Support and facilitate the development of health centres, hospitals, clinics and primary care centres where new communities are proposed and in towns, villages and local centres, with good accessibility for all.
- 4.1.4. Objective SPQHP35 – Promote a high quality of design and layout in new residential developments at appropriate densities across Fingal, ensuring high-quality living environments for all residents in terms of the standard of individual dwelling units and the overall layout and appearance of developments. Residential developments must accord with the standards set out in the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG 2009* and the accompanying *Urban Design Manual – A Best Practice Guide* and the *Sustainable Urban Housing; Design Standards for New Apartments (DHLGH as updated 2020)* and the policies and objectives contained within the *Urban Development and Building Heights Guidelines (December, 2018)*. Developments should be consistent with standards outlined in Chapter 14 Development Management Standards.
- 4.1.5. Objective DMS06 - *Assess planning applications for change of uses in all urban and village centres on their positive contribution to diversification of the area together with*

*their cumulative effects on traffic, heritage, environment, parking and local residential amenity'.*

#### **4.2. Natural Heritage Designations**

- 4.2.1. The site is not located within or adjacent to any Natural Heritage Designations nor is there any hydrological link to the same

#### **4.3. EIA Screening**

Having regard to the nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **5.0 The Appeal**

#### **5.1. First Party Appeal**

- 5.1.1. A first party appeal prepared by BMA Planning Consultants on behalf of the applicants was lodged on the 14<sup>th</sup> September 2023.

#### **5.2. Grounds of Appeal**

- These units have been vacant since completion
- Unit 601 has been granted permission for a restaurant (under FW22A/0107) - the interested tenant for the same has subsequently withdrawn their interest.
- Unit 602 has been granted for the purposes of a residents room but this has been offered to the residential apartment owners of Charlestown whom have confirmed that they have no use for the unit.
- The applicant has found a tenant, the HSE whom will lease Units 601 and 602 and if granted will move in immediately and put the units to an appropriate use having regard to the location.

- The proposed development will provide an active Community Healthcare Facility in the middle of Charlestown Centre and will provide an active edge to the western edge of the square
- The permitted and existing residential development at Charlestown is not a Build to Rent development. As such, the provision of amenities and facilities is not a planning requirement. In addition, Charlestown residents have direct access to a wide range of community services and facilities within the Charlestown Centre.
- Section 37(2)(b) (iii) states permission for the development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under Section 28, policy directives under Section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government
- Section 28 guidance includes for Sustainable Urban Housing: Design Standards for New Apartments 2020 (updated in 2022) which provide clear and unambiguous direction that communal facilities should be subject to negotiation and agreement with an applicant and not imposed by the planning authority.
- Section 4.6 of the guidelines states that: *Communal or other facilities within apartment schemes should be subject to negotiation and agreement with the developer as part of the planning process. This should not generally be imposed as requirements by the planning authority in the absence of proposals from and / or the agreement of an applicant. The provision of such facilities is likely to have significant implications for management and maintenance costs for the future residents.'*
- The proposal does not materially contravene objective DMS06 or Policy SPQHP35 of the Fingal County Development Plan 2023-2029.

### 5.3. Planning Authority Response

- The Planning Authority lodged a response to the appeal on the 12<sup>th</sup> October 2023 which states that there is a significant number of apartments at Charlestown with limited resident amenities. The provision of communal

facilities for residents was proposed by the scheme proponents and was taken into account in the assessment of the residential schemes for the site

- The Planning Authority is of the opinion that apartment schemes of this scale should be provided with proportionate residential amenities and that the unit should remain for the purposes as intended in the parent applications for the site
- The Planning Authority requests that the Board uphold the decision to refuse permission

#### **5.4. Observations**

- None received

#### **5.5. Further Responses**

- None received

### **6.0 Assessment**

#### **6.1. Introduction**

6.1.1. I am satisfied the substantive issues arising from the grounds of this first party appeal relate to the following matters-

- Principle
- Visual Amenity Considerations

#### **6.2. Principle**

6.2.1. The proposed development is located on lands zoned as TC Town Centre and District Centre in the current County Development Plan where it is the objective of the council "To protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities"



- 6.2.2. A health centre is a use which are permitted in principal on lands zoned as TC. The principle of the proposal is therefore considered acceptable in principle in the Charlestown Centre
- 6.2.3. The predominant issue here is that one of the two units, Unit 602 was previously permitted for use as a Communal Residents Room that would serve the apartments overhead as per Planning Reg. Ref. FW19A/0146. The other unit, Unit 601 was permitted as a 'Retail' unit and has been granted permission for its change of use to a restaurant.
- 6.2.4. It is understood that no other communal facility other than open space provision was proposed under Planning Reg. Ref. FW19A/0146 which was for 377 units.
- 6.2.5. The documentation submitted with the appeal states that the two units have remained empty since they were constructed and that attempts have been made to lease them and that Unit 602 has been offered to the residential owners at Charlestown( including Urbeo, Respond, IRES, Tuath and Fingal County Council) to no avail.
- 6.2.6. The applicant now has secured a tenant, the HSE, whom can fit out the two units for the purpose of a Health Centre and can begin fit out and operate immediately.
- 6.2.7. It would appear that the Planning Authority refuse to grant permission for this on the basis that it was to be used for the purposes of a Communal Residents Room to serve the future residents of the apartment scheme as granted under Planning Reg. Ref. FW19A/0146.
- 6.2.8. I note that the development description with respect of the above planning permission does include for a communal residents room and I am of the opinion that there is merit in retaining this use for the residents. I note that there is no planning condition stipulating that the use of the unit as a communal residents room must remain in perpetuity. If the said unit is not been availed of for the use intended then I see no reason as to why another use which would facilitate community would not be allowed.
- 6.2.9. There are sufficient amenities in the area including a cinema and a playground and all the services offered in the Charlestown Centre.
- 6.2.10. It is understood from the documentation submitted on appeal to the Board that the HSE are ready to move into these units for the purposes of operating a Health Centre.

- 6.2.11. I am of the opinion that a Health Centre to serve the community would be an acceptable use at this location, would benefit the apartment residents community, the wider community and would comply with the TC zoning objective for the site
- 6.2.12. I note that while the services offered by the centre are not listed, details submitted with the application state that the proposed development is for a Community Health Network Branch operated by the HSE
- 6.2.13. It is recommended that if the Board decide to grant permission for the said development that details with respect of the detailed use of the Health Centre be agreed prior to the commencement of development.

### **6.3. Visual Amenities**

- 6.3.1. The proposed development will put to use two vacant units on the western edge of Charlestown. The proposal includes for elevational changes and signage associated with the proposed use.
- 6.3.2. The details of the elevational changes and the signage are not clear and as such it is recommended in this instance that these details can be agreed by way of planning condition

### **6.4. Layout of the Proposed Units**

- 6.4.1. It is noted that there appears to be an internal wall proposed between Units 602 and Units 601 and separate entrances to each unit implying that they can be used separately. I think it would be appropriate to condition that the units are not subdivided for separate units unless otherwise agreed with the planning authority

### **6.5. Development Contributions**

- 6.5.1. With respect of development contributions I note that Fingal state in the response to the appeal that contributions are required. In this regard I note that there is no increase in floorspace and that community floorspace is replacing commercial floorspace

(associated with Unit 601) and community floorspace (associated with unit 602) In this respect I do not consider a contribution is required.

## 6.6. **Appropriate Assessment Screening**

- 6.6.1. Having regard to the nature and scale of the proposed development, the distance from any European site and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS.

## 7.0 **Recommendation**

- 7.1. I recommend that permission is granted subject to the following conditions;

## 8.0 **Reasons and Considerations**

- 8.1. Having regard to the information submitted with the application and the nature and scale 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 visual or residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 9.0 **Conditions**

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| 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.<br><br><b>Reason:</b> In the interest of clarity. |
| 2. | (a) Revised details showing external fenestration and signage shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.  |

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|    | <p>(b) Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.</p> <p>Reason: In the interests of visual amenity.</p>  |
| 3. | <p>(a) Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to a health centre/clinic (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.</p> <p>(b) The permitted development shall operate as a single facility only and shall not be subdivided unless by way of consent of a revised planning application</p> <p>(c) Exact details with respect of the use and operation of the proposed Heath Centre/Clinic shall be agreed in writing with the Planning Authority prior to the commencement of development</p> <p>Reason: To protect the amenity of orderly development</p> |
| 4. | <p>Hours of operation shall be agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: To protect residential amenity</p>   |
| 5. | <p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 and 1400 hours on Saturday 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.</p> <p><b>Reason:</b> To safeguard the residential amenities of adjoining property in the vicinity</p>   |

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

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Andrew Hersey

Planning Inspector

7<sup>th</sup> December 2023