



An
Bord
Pleanála

Inspector's Report ABP-318387-23

Development	Change of use of existing first floor storage area to residential use with ground floor access, additional external openings and balconies, refuse storage area and all associated site works.		
Location	24, Dublin Street, Carlow, Co. Carlow. .		
Planning Authority Ref.	Carlow County Council.		
Applicant(s)	Umberto Tavolieri.		
Type of Application	Permission	PA Decision	Refuse permission.
Type of Appeal	First Party	Appellant	Umberto Tavolieri
Observer(s)	An Taisce		
Date of Site Inspection	22 nd February 2024.	Inspector	Des Johnson

Context

1. Site Location/ and Description.

1.1 The site is located on the eastern side of Dublin Street, adjacent to the centre of Carlow Town. It is part of an established terrace of two and three storey buildings fronting the east side of Dublin Street.

1.2 The site is currently occupied by a two-storey takeaway fronting on to Dublin Street, and a two-storey flat roof extension to the rear. The proposal under appeal relates to the first floor of the extension to the rear of the takeaway premises. The ground floor of the rear extension is stated to be a commercial unit. The first floor of the subject extension has blank walls to the north and south,

1.3 There is a vacant site adjoining to the north, and an area of carparking adjoining the eastern end of the site.

1.4 I was unable to gain access to the rear extension at the time of inspection.

2. Description of development.

2.1 The proposal is for a change of use of existing first floor storage area to residential use with ground floor access, additional external openings, and balconies, refuse storage area and all associated site works.

2.2 The area for the proposed change of use is stated to be 113 sqm. It is proposed to provide 3 single occupancy bedrooms (13 sqm each), each with ensuite, and storage (1.4 sqm), and a communal kitchen, dining, and lounge area (37 sqm). Each of the bedrooms and the kitchen, dining and lounge room would be provided with a balcony area (2 sqm for bedrooms and 4 sqm for kitchen, lounge, and dining area). The proposed balconies would face north-north- east across the vacant adjoining site. Two roof lights are proposed to light an access hallway, and two rooflights would light the kitchen, dining and lounge area. Two circular windows are proposed in the northern elevation. A new rear balcony area is proposed with a stated floor area of 16 sqm. An existing stairwell and door at the eastern end of the extension would be used for access to the proposed apartments.

3. Planning History

3.1 Reference 04/5447 – permission granted for change of use of first floor restaurant unit into office unit with storage at 24, Dublin Street. Dated 11th July 2005.

Reference 23/14 – by Order dated 15th March 2023, permission refused for change of use of existing first floor storage to residential use with ground floor access, additional external openings, refuse storage area, and all associated site works at this site. Four bedrooms were proposed. There were three reasons for refusal relating to:

- Poor quality design, lack of compliance with Apartment Guidelines, and materially contravention of Development Plan policies
- Substandard form of development with poor residential amenity for intended occupants
- Unacceptable level of overlooking and visual intrusion of the amenities of the adjoining property contrary to good urban design principles.

Adjoining site to the north.

Reference 18/384 –Permission granted (for 3 years) for the retention of demolition and reconstruction of original two-storey building.

UD 18/31 – Enforcement Notice dated 20th June 2018 in relation to the unauthorised use of the site as a temporary car park.

UD 16/71 – Legal proceedings in relation to the unauthorised demolition of the building on the site.

4. Planning Policy

4.1 Carlow County Development Plan 2022-2028 came into effect on 4th July 2022. The site is zoned ‘Town Centre’ with the objective to protect, provide for and/or improve town centre facilities and uses. Dublin Street is designated as an Architectural Conservation Area, but No. 24 is not a Protected Structure.

Policy DP P3 – It is policy to encourage high quality design and innovation in architectural design that delivers buildings to a high quality that positively contribute to the built environment and streetscape.

Policy AP P1 – It is policy to require apartment developments to be in accordance with ‘Design Standards for New Apartments’ updated in 2020 or any amendments to the Guidelines during the life of the Plan.

4.2 Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area 2012-2018. Objectives relating to Dublin Street include ‘to encourage the use of upper floors for office or residential use.

4.3 Sustainable Urban Housing: design Standards for New Apartments – Guidelines for Planning Authorities. 2022. DHLGH.

Apartments are most appropriately located within urban areas.

Chapter 3 refers to Apartment Design Standards. SPPR 3 sets out minimum apartment floor areas – Studio Apartment (1 person) 37 sqm, 1 bed apartment (2 persons) 45 sqm, and 2 bed apartment (4 persons) 73 sqm.

Section 3.16 refers to Dual Aspect Ratios. Ultimately the daylighting and orientation of living spaces is the most important objective. West and east facing single aspect apartments are acceptable. North facing single aspect apartments may be considered, where overlooking a significant amenity such as a public park, garden, or formal space etc. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, these requirements may be relaxed in part, on a case-by-case basis, subject to overall design quality.

Private open space should be located to optimise solar orientation and designed to minimise overshadowing and overlooking. Balconies should adjoin and have a functional relationship with the main living areas of the apartment. Standards may be relaxed for refurbishment schemes.

SPPR 7 – there is a presumption against granting planning permission for shared accommodation/co-living development unless the proposed development is required to meet specific demand, identified by a local planning Authority further to a HNDA process.

5. Natural Heritage Designations

5.1 The River Barrow and River Nore SAC is c. 225m to the north west. Qualifying interests include mudflats and sandflats, reefs, salt meadows, dry heaths, water course of plain to montane levels, petrifying springs, old sessile woods, alluvial forests, whorl snail, freshwater pearl mussel, white-clawed crayfish, lamprey (various), twaite shad, salmon, otter, Killarney fern, and Nore pearl mussel.

Development, Decision and Grounds of Appeal

6. PA Decision.

6.1 Refuse permission by Order dated 11th October 2023. There are 3 reasons for refusal summarised as follows:

- Substandard development for reason of poor-quality design, non-compliance with DHLGH Sustainable Urban Housing: Design Standards for New Apartments (2023), and contrary to Policies AP.P1 and DP.P3 of the County Development Plan.
- Substandard development due to poor quality design, including an inadequate provision and layout of functional private amenity space, a north facing single aspect design with limited potential for direct sunlight, and an inadequate provision of internal storage space. Poor residential amenity for intended occupants, and undesirable precedent.
- The design, including the introduction of openings and balconies in the north facing side elevation, would be contrary to the protection of the amenities of the adjoining property to the north, would give rise to an unacceptable level of overlooking and visual intrusion, and would be prejudicial to any future redevelopment of the property. The proposed development would set an undesirable precedent.

6.2 Planners report notes that there are no archaeological heritage items on the site, and that there are several Protected Structures in the vicinity, including No. 26 to the north. The site is not within, or in proximity to, a flood risk area. The

proposed layout has the ability to give rise to a co-living arrangement, contrary to SPPR 7 of the Apartment Guidelines. The proposed development is single aspect facing northwards on to the vacant plot at No. 25. The viability and practicality of use of this single aspect in terms of windows and balconies, would be reliant on No. 25 remaining a vacant plot or open site. No. 25 is the subject of current ongoing High Court Proceedings and a High Court Order requiring the reinstatement of the demolished building on this plot. The proposed development would be contrary to the protection of the amenities of No. 25 and would be premature pending resolution of the High Court proceedings and reinstatement of the demolished building on the plot. The north facing orientation and single aspect would result in limited sunlight reaching internal floor areas. Proposed internal storage is below the minimum 9 sqm required in the Apartment Guidelines. Four of the proposed balconies do not have a functional relationship with the main living/dining/lounge area. The layout for private amenity space is not practical or usable in the context of a single residential unit.

6.3 Environment Section report raises no objection subject to a condition regarding surface water drainage.

Roads report – no objection subject to recommended conditions.

7. First Party Grounds of Appeal

7.1 The grounds of appeal may be summarised as follows:

- The design is in line with the guidelines for new residential units in Carlow Town Centre.
- The proposed development would not compromise the adjacent vacant site, to which the owner has consented to the introduction of balconies and windows. The adjoining site has planning for unit to the front and would not be affected by the new openings.
- The proposed design provides a high-quality residential living space with easy access to town centre activities and onsite parking.

8. Responses

8.1 The Planning Authority response may be summarised as follows:

- The proposed design has the ability to give rise to a co-living arrangement. In the absence of any justification with reference to the Housing Need and Demand Assessment (HDNA) process, a co-living arrangement is not acceptable.
- The viability and practicality of use of this single aspect development in terms of proposed windows and balconies would be reliant on No. 25 remaining as a vacant plot or open site. No. 25 is the subject of ongoing High Court proceedings and an Order requiring the reinstatement of the demolished building on this plot. The proposed development would be contrary to the protection of the amenities of No. 25, and would be premature pending the resolution of the Court case.
- The proposed single aspect development would be contrary to the requirements of the Apartment Guidelines. There would be limited direct sunlight reaching internal floor areas. The use of rooflights to overcome this issue is not appropriate.
- Proposed private amenity space is not practical or useable.
- The proposed development would be contrary to Policies contained in the Carlow CDP 2022-2028.

8.2 An Taisce concurs with the decision to refuse permission. Sub-standard living accommodation is contrary to urban centre regeneration.

Environmental Screening

9. EIA Screening

9.1 Having regard to the nature of the proposed development on a town centre site, and the absence of any significant environmental sensitivity in the vicinity 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.

9.2 Having regard to the nature of the proposed development, its location on a town centre site, connection to existing services, and the absence of connectivity to the River Barrow and River Nore SAC or any other European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

2.0 Assessment

2.1 The proposal is for a change of use of existing first floor storage area to residential use with ground floor access, additional external openings, and balconies, refuse storage area and all associated site works. The area for the proposed change of use is stated to be 113 sqm. It is proposed to provide 3 single occupancy bedrooms (13 sqm each), each with ensuite, and storage (1.4 sqm), and a communal kitchen, dining, and lounge area (37 sqm). Each of the bedrooms and the kitchen, dining and lounge room would be provided with a balcony area (2 sqm for bedrooms and 4 sqm for kitchen, lounge, and dining area). The proposed balconies would face north-north-east across the vacant adjoining site No. 25. Two roof lights are proposed to light an access hallway, and two rooflights would serve the proposed kitchen, dining, and lounge area. A new rear balcony area is proposed with a stated floor area of 16 sqm. An existing stairwell and door at the eastern end of the extension would be used for access to the proposed apartments. A separate storage room of 2.7 sqm is proposed.

2.2 The application documentation includes a letter dated May 2023 from Mr. Joseph Germaine, the adjacent landowner, giving consent for access to traverse over his lands for the purpose of fire escape. The letter also states no objections to proposed openings

viewing the rear of his property as this will only enhance the blank concrete wall currently on the site.

2.3 This proposal is similar in nature to a previous proposal refused permission by the planning authority in March 2023, under Reference 23/14. The previous proposal consisted of 4 bedrooms, and a smaller kitchen, living and dining room area. Three reasons for refusal were given relating to:

- Poor quality design, lack of compliance with Apartment Guidelines, and material contravention of Development Plan policies
- Sub-standard form of development with poor residential amenity for intended occupants
- Unacceptable level of overlooking and visual intrusion of the amenities of the adjoining property contrary to good urban design principles.

2.4 I consider that the key planning issues arising in this appeal generally fall under the following headings:

- Principle of residential development
- Design standards
- Amenities of property in the vicinity
- Environmental assessments

I address each of these as follows:

Principle of Residential Development

2.5 The site is in a town centre location. It is a vacant storage area at first floor level above a stated commercial unit. It is proposed to connect to public services, and the site

includes 5 existing carparking spaces and adjoins further carparking spaces to the rear. The site lies within an Architectural Conservation Area as per the current Development Plan, but the existing two storey property fronting on to Dublin Street is not a Protected Structure, and the proposed development would have no significant visual impact on the existing structure or the streetscape. The site is in an area zoned for Town Centre uses with the objective to protect, provide for and/or improve town centre facilities and uses, and it is an objective of the Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area 2012-2018 (as extended) 'to encourage the use of upper floors for office or residential use'. In these circumstances I conclude that the proposed change of use from storage to residential use is acceptable in principle on this site.

Design Standards

2.6 The planning authority assesses the proposed residential unit in the context of the Apartment Guidelines 2022 and, having regard to the design and layout of the proposal, I consider this to be reasonable. The Planner's report notes that the exact nature of the proposed residential use is not specified in the plans and particulars. I agree with this view. The proposed layout providing for 3 bedrooms, (each with a stated floor area of 13 sqm), and each with ensuite and its own balcony, together with a common kitchen, dining, and lounge area, all connected by a linear access hallway, in addition to a proposed new separate balcony area, is suited to a co-living arrangement. Under Special Planning Policy Requirement 7 (SPPR 7) of the Apartment Guidelines 2022, there is a presumption against granting planning permission for shared accommodation/co-living development unless the proposed development is required to meet specific demand, identified by the planning authority further to a Housing Need and Demand Assessment (HNDA) process. In this case there is no information to indicate that the proposed development is to meet an identified specific demand, and the planning authority has refused permission. As such I conclude that the proposed

development would be contrary to SPPR 7 of the Apartment Guidelines, and Policy AP P1 of the County Development Plan.

2.7 The proposed floor area for each bedroom is 13 sqm, and each has 1.4 sqm storage space. The Apartment Guidelines 2022, Chapter 3 refers to Apartment Design Standards. SPPR 3 sets out minimum apartment floor areas, and for a studio apartment (1 person) the floor area is 37 sqm. The Apartment Guidelines provides for a relaxation of standards where refurbishment is proposed on sites up to 0.25ha, subject to overall design quality.

2.8 Private amenity space is proposed in the form of separate 2 sqm balconies serving each of the bedrooms, a separate 4 sqm balcony serving the proposed kitchen, dining and lounge, and a separate new balcony area of 16 sqm at the eastern end of the development, and separated from the proposed living accommodation by an existing and proposed stairway access. The proposed bedroom balconies are 1m deep and face north-north- east. The proposed balcony serving the proposed kitchen, dining and lounge is shown as 1.018m deep and faces north-north-east. The proposed residential accommodation is all single aspect facing north-north-east, with little potential for direct sunlight. In these circumstances, I conclude that the proposed provision of private amenity space is seriously sub-standard, and would give rise to poor residential amenity for residents of the proposed development.

Amenities of adjoining property

2.9 The proposed balconies all directly overlook the adjoining vacant site adjoining to the north-north-east: the planning authority states that this site is the subject of High Court proceedings and an Order requiring the re-instatement of the demolished building on this plot. The application documentation submitted to the planning authority included a letter from the adjacent landowner giving consent for fire escape across his lands, and the provision of the proposed openings viewing the rear of his property. Based on the information on file, I conclude that the future of the adjoining site is uncertain, and that the provision of the proposed balconies would directly overlook the vacant site limiting

the potential for its future development. I also conclude that the outlook from the proposed balconies would be seriously sub-standard.

Environmental Assessments

2.10 Having regard to the nature of the proposed development on a town centre site, and the absence of any significant environmental sensitivity in the vicinity 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.

2.11 Having regard to the nature of the proposed development on a town centre site, connection to existing services and absence of connectivity to the River Barrow and River Nore SAC or any other European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

3.0 Recommendation

I recommend that planning permission be refused.

Reasons

1. The proposal, by reason of its poor quality design, including the inadequate provision and sub-standard layout of functional private amenity space, and its north-north-east facing single aspect design with limited potential for direct sunlight, would give rise to a sub-standard form of development with poor residential amenity for future occupants, would conflict with standards set out in the Sustainable Urban Housing: Design Standards for New Apartments 2023, would materially conflict with

policies AP.P1 and DP.P3 of the Carlow County Development Plan 2022-2028 which are considered to be reasonable, and would be contrary to the proper planning and sustainable development of the area.

2. The design of the proposed development, with balconies facing north-north-east, would result in serious overlooking of the adjoining site at No. 25, limiting the potential for future development on that site, and providing a poor quality outlook for the future residents of the proposed development. As such, the proposed development would be seriously injurious to the residential amenities of property in the vicinity, and contrary to the proper planning and sustainable development of the area.

Des Johnson

Planning Inspector

27th February 2024.

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.