



An
Bord
Pleanála

Inspector's Report

ABP-320559-24

Development	Change of use from office use to overnight staff accommodation and associated works.
Location	Anglesea Mill, 9 Anglesea Row, Dublin 7, D07 K7KF
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3765/24
Applicant(s)	nDevor Systems Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refuse
Appellant(s)	nDevor Systems Limited
Observer(s)	None
Date of Site Inspection	17 th October 2024
Inspector	Gerard Kellett

1.0 Site Location and Description

- 1.1. The subject site is located at No.9 Anglesea Row, Dublin 7, relating to the first-floor level which is part of a 5-6-storey extended and converted former mill/warehouse building set onto a narrow-cobbled laneway. There is a undercroft vehicular access to the eastern side for the site fronting onto Anglesea Row.
- 1.2. To the east is Capel Street. To the west opposite the site is a recent brick finished development StayCity Hotel development. To the north is an existing 4 storey apartment block. The surrounding area in my view is defined by a mix of office and residential uses.

2.0 Proposed Development

- 2.1. Permission is sought for permission of change of use of first floor office accommodation to overnight staff accommodation and associated works.
- 2.2. The overnight accommodation would comprise of 9.no single person sleeping pods/rooms with associated sanitary and shower facilities. The size of the rooms would range from 7.9sqm to 11.9sqm. No private open or communal space is being provided for occupants. It is proposed that stays would be limited to one day with no continuous occupation as per the submitted details. The applicant states that they are willing to accept appropriate conditions in that regard.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused permission on the 18th of July 2024 stating the proposed development as a form of shared or co-living development would materially contravene the provisions of the Dublin City Development Plan 2022-2028 and Housing Strategy and would be contrary to the requirements of 2023 Design Standards for New Apartment..., it is also considered that the layout does not provide

for a suitable level of amenity for the future occupants of the apartment development by virtue of the lack of windows on outside walls to allow for a suitable level of daylight.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report forms the basis for the decision to refuse permission stating:

- There is no specific residential category for staff accommodation under the Development Plan or in DHLGH's 2023 Sustainable Urban Housing: Design Standards for New Apartment. Staff accommodation is mentioned in association with institutional/ medical facilities under Z12 and z15 zonings within the Development Plan. Under 15.13.7 'Nursing Homes/Assisted Living' the Development Plan notes that ancillary accommodation for staff of any such facility will be considered on a case by case basis. It would be however presumed that such facilities would be housed within purpose built structures or via the reuse of existing buildings for medium to longer use to accommodate usually single overseas workers on short to medium term contracts, but with accommodation still to be in compliance with the appropriate requirements of the DHLGH's 2023 Sustainable Urban Housing: Design Standards for New Apartments.
- The proposal as arranged with no obvious precedents would probably be analogous with co-living use. The Development Plan is explicit with regard to shared accommodation/co-living noting that there will be a general presumption against the granting of planning permission for shared accommodation/co-living in Dublin City as per the apartment Guidelines (updated under SPPR 7 of the 2023 Apartment Guidelines) and the HNDA analysis undertaken (Appendix 2 Housing Strategy of the Development Plan).
- In terms of accommodation requirements, the proposal would be substandard as while the single occupancy bedrooms meet minimum size as set out in Appendix 1 of the 2023 Apartment Guidelines – however as residential accommodation they would not comply with minimum requirements for studios

or 1- bedroom apartments. While no longer a category the proposal as a form of 'shared living development' would not have complied with the standards for same as set out in the 2018 Apartment Guidelines.

- Only three of the rooms have access to window on an external wall and thus the development seems more akin to 'barracks' accommodation rather than say for example a hotel room or tourist hostel accommodation. Section 6.5 of the 2023 Apartment Guidelines states that the provision of acceptable levels of natural light in new apartment developments is an important planning consideration.
- No model of use or management plan has been provided by the applicant in regard to the proposal and there are no obvious precedents for same within the city that the planner is aware of.
- The applicant's justification scenario is however probably not unique - and the need for staff accommodation is generally understood, - possibly something closer to the co-living model could be considered but that would seem to require some form separate or amended apartment guidelines and a revision to the City's Housing Strategy.

The report also provides a description of the site, indicates the planning history, identifies the land use zoning designation and associated policy context from the Dublin City Development Plan 2022-2028. No concerns with respect to AA or EIA where raised.

3.2.2. Other Technical Reports

- Environmental Health Officer – No object subject to conditions.
- Transportation Section – Recommended further information with regard to cycle provision.
- Drainage Division – No object subject to conditions.

3.3. Prescribed Bodies

Irish Water: No comments received.

Transport Infrastructure Ireland (TII): Section 49 Supplementary Development Contribution Scheme – Luas Line Levy should apply if not exempt.

3.4. Third Party Observations

None received.

4.0 Planning History

PA REF: 4743/04 – Refers to grant of permission granted in 2004 for additional floor of offices/ commercial set back at fifth floor level of already approved five storey over basement office development (Reg Ref No 2268/02).

PA REF: 2268/02 – Refers to a grant of retention permission in 2002 for renovation of existing external stone walls, removal of derelict floors and roof to 3 storey over basement warehouse building and construction of six storey over basement office building with recessed upper floor.

5.0 Policy Context

5.1. Development Plan

The Dublin City Development Plan 2022 – 2028

The following policies and objectives are relevant to the proposal:

The subject site is zoned “Z5” – (City Centre) which the objective is ‘To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity’.

Chapter 5 – Quality Housing and Sustainable Neighbourhoods

Policy QHSN43 (Shared Accommodation/Co-living): That there will be a general presumption against the granting of planning permission for shared accommodation/co-living in Dublin City as per Specific Planning Policy Requirement (SPPR) 9 of ‘Sustainable Urban Housing: Design Standards for New Apartments’, 2020 and the HNDA analysis undertaken.

Chapter 15 – Development Standards

5.2. Section 28 Guidelines

Sustainable Urban Housing: Design Standards for New Apartments (2023)

5.3. Natural Heritage Designations

The site is not located within or adjacent to any designated Natura 2000 site. The nearest Natura 2000 site(s) are as follows:

- South Dublin Bay and River Tolka Estuary Special Protected Area (SPA) (Site code: 004024) 3.1km to the east of the subject site.
- The North Bull Island Special Protected Area (SPA) (Site code: 004006) 6.2km to the east of the site.
- North Dublin Bay Special Area of Conservation (SAC) (Site code: 000206) 6.2km to the east of the site.

5.4. EIA Screening

The proposed development does not come within the definition of a ‘project’ for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of report.

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is

also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

A first-party appeal has been lodged on behalf of the appellant by PMCA Architecture & Planning against the decision of Dublin City Council to refuse planning permission. The grounds of appeal can be summarised as follows:

- The sleeping pods do not form residential development. The pods are to be used with regard to infrequent overnight accommodation exclusively for staff and not for the general public.
- It is submitted that providing overnight hotel accommodation is expensive and difficult to arrange, with the issues of overnight staff accommodation causing pressures.
- It is said that many staff members are working remotely from their homes and living away from Dublin, but that there is still a need to on-site monthly staff meetings and collective research project reviews.
- Adequate ventilation would be provided. A Report supplied by Mc Elligott Engineers on file.
- The use can be controlled by way of condition.
- Accommodation is for a single person to sleep on an overnight basis only and the use of the Design Standards for Apartments is inappropriate.
- Entire 5th floor is given over to a canteen and social area.
- Cycle parking is currently provided at ground floor for six spaces.
- A supporting letter by the owner of the company giving a justification for the proposal and break down number of people that would use the pods.

6.2. Planning Authority Response

None received.

6.3. Observations

None received.

7.0 Assessment

Having examined the application details and all other documentation on file, including the submission received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Compliance with Apartment Guidelines
- Other Matters

7.1. Principle of Development

- 7.1.1. The subject site is zoned “Z5” – (City Centre) as per the Dublin City Council Development Plan 2022 – 2028 which has the objective, *‘To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity’*. Residential use is a permitted in principle use within this zoning having taken the zoning matrix into consideration. There is no specific reference for overnight staff accommodation in this Z5 zoning. Such reference to staff accommodation in the Development Plan in my view is only referenced on Zone Z12 (Institutional Land) and Zone Z15 (Community and Social Infrastructure) lands and under section 15.13.7 ‘Nursing Homes/Assisted Living’ that ancillary accommodation for staff of any such facility will be considered on a case-by-case basis on these lands
- 7.1.2. Permission is sought for the change of use of first floor office accommodation to overnight staff accommodation comprising of 9. no single person sleeping pods/rooms with communal sanitary and shower facilities. The size of the rooms would range from 7.9sqm to 11.9sqm. It is proposed that stays would be limited to one day with no

continuous occupation. The use of the fifth floor would be used as a canteen area. The applicant states that they are willing to accept appropriate conditions to control usage.

- 7.1.3. The Planning Authorities reason for refusal indicates by reason of the proposed layout that this type of accommodation proposed being staff accommodation would be more akin to 'shared accommodation or a co-living development'. The applicant contends that that accommodation does not constitute continuous residential accommodation and as such normal residential design standards should not apply.
- 7.1.4. I concur with the Planning Authorities position that by reason of the proposed layout with individual rooms and communal kitchen and toilet area would be more akin to 'shared accommodation or a co living development'. Policy QHSN43 (Shared Accommodation/Co-living) of the Dublin City Council Development Plan 2022 – 2028, in my view is relevant and states, *"That there will be a general presumption against the granting of planning permission for shared accommodation/co-living in Dublin City as per Specific Planning Policy Requirement (SPPR) 9 of 'Sustainable Urban Housing: Design Standards for New Apartments', 2020 and the HNDA analysis undertaken."* I note that that the Specific Planning Policy Requirement (SPPR) 9 and the said apartment guidelines above have been updated as of July 2023 with Specific Planning Policy Requirement (SPPR) 7 which explicitly states that, *"There shall be 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 Housing Need and Demand Assessment (HNDA) process"*.
- 7.1.5. On that basis, it is clear there is a presumption against this type of layout and accommodation. Having reviewed the Dublin City Development Plan has not identified a demand for overnight staff accommodation in this area. Therefore, having regard to the foregoing I consider that the proposed development if granted would materially contravene Policy QHSN43 (Shared Accommodation/Co-living) of the Dublin City Council Development Plan 2022 – 2028 and permission should be refused.

7.1.6. If the Board is of a mind to grant permission, I would refer to section 37(2)(a) of the Planning and Development Act 2000 (as amended), which states the Board may only grant permission even if the proposed development materially contravenes the development plan where it considers that one of the following circumstances/criteria of section 37(2)(b) of the Act apply. The criteria is set out below —

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,

or

(iii) permission for the proposed development should be granted having regard to [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, or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.1.7. It is my view considering the nature and layout of the proposed development would not be of strategic or national importance, that there are no specific guidelines for such development nor conflicting objectives in the development plan nor any similar types of development granted in the area since the making of the development plan that I am aware of. Therefore, I do not consider a material contravention 37(2)(b) is justified in this instance.

7.2. Compliance with Apartment Guidelines

- 7.2.1. I consider the proposed development is akin to a type of apartment accommodation and be assessed against the current Sustainable Urban Housing: Design Standards for New Apartments (July 2023) which outlines certain standards that need to be adhered to, like adequate provision of natural light and amenity space.
- 7.2.2. The Sustainable Urban Housing: Design Standards for New Apartments (July 2023) *“... apply to housing developments that include apartments that are built specifically for rental purposes, whether as ‘build to rent’ or that were originally permitted or built as ‘shared accommodation’ that may subsequently be proposed as standard apartment development. Unless stated otherwise, they apply to both private and public schemes”.*
- 7.2.3. Whilst the proposed 9no. rooms comply with the space standards for single occupancy bedrooms as set out in Appendix 1 of above guidelines, only 3.no of the rooms would have windows on an external wall. The remaining rooms would have no access to natural light, which in my view is unacceptable, as is required by section 6.5 of these guidelines. The provision of acceptable levels of natural light in new residential developments in my view is an important planning consideration as it contributes to the liveability and amenity enjoyed by apartment residents which in my opinion this proposal does not strive to achieve. In addition, no provision of communal amenity space for the occupants has been provided by the applicant which in my view is unacceptable which would constitute a haphazard form of development which would be sub-standard in terms of layout and configuration.
- 7.2.4. Therefore, having regard to the foregoing, the development in my view constitutes a substandard form of development in terms of layout and configuration, would be seriously injurious to the amenities of future occupants of the development and set an undesirable precedent for such accommodation and would be contrary to the requirements of the Sustainable Urban Housing: Design Standards for New Apartments (2023) and as such permission should be refused.

7.3. Other Matters

- 7.3.1. I note the supporting letter provided by the applicant outlining the need for the accommodation citing the use of the accommodation would be infrequent, that providing overnight hotel accommodation for monthly staff meetings can be expensive and difficult to arrange. However, having regard to the proposed layout of the accommodation I am not satisfied that a change of use from office to overnight staff accommodation is acceptable in the context of Policy QHSN43 of the Development Plan and the Sustainable Urban Housing: Design Standards for New Apartments (July 2023).

8.0 Appropriate Assessment Screening

Refer to Appendix 2. Having regard to nature, scale, and location of the proposed development and nature of the receiving environment and proximity to the nearest European site, 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.

9.0 Recommendation

I recommend that permission should be refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations

Having regard to the Dublin City Development Plan 2022 – 2028, and Sustainable Urban Housing: Design Standards for New Apartments (2023), it is considered the proposed change of use from office to overnight staff accommodation as a form of shared accommodation or co-living development would materially contravene policy QH5N4 of the Dublin City Development Plan 2022 – 2028, would be contrary to the requirements of the Sustainable Urban Housing: Design Standards for New Apartments (2023) and would constitute a substandard form of development and

would be seriously injurious to the amenities of future occupants of the development. The development 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 person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Gerard Kellett

Planning Inspector

29th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320559-24		
Proposed Development Summary	Change of use from office use to overnight staff accommodation and associated works		
Development Address	Anglesea Mill, 9 Anglesea Row, Dublin 7, D07 K7KF		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	√
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	√		No further action required.
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	√		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			Preliminary examination required. (Form 2)
5. Has Schedule 7A information been submitted?			
No	√	Screening determination remains as above (Q1 to Q4)	
Yes			

Inspector: _____ Date: _____

Appendix 2

AA Screening

I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.

The site is not located within or adjacent to any designated Natura 2000 site. The nearest Natura 2000 site(s) are as follows:

- South Dublin Bay and River Tolka Estuary SPA (004024) 3.1km to the east of the subject site.
- The North Bull Island SPA (004006) 6.2km to the east of the site.
- North Dublin Bay SAC (000206) 6.2km to the east of the site.

The development is located within a city centre location and comprises the *change of use of first floor office accommodation to overnight staff accommodation and associated works*.

Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:

- The nature of the development.
- The location of the development in a serviced urban area, distance from European Sites and urban nature of intervening habitats, absence of ecological pathways to any European Site.

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.