

An
Bord
Pleanála

Inspector's Report

ABP321849-25

Development	A change of use of apartment no. 89 within the existing development to provide for use as a medical suite.
Location	Apartment No. 89, Building No. 2, Number One Ballsbridge, New Pembroke Street North, Dublin 4.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	WEB2564/24
Applicant(s)	VIP Alliance Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party
Appellant(s)	VIP Alliance Ltd.
Observer(s)	None.
Date of Site Inspection	03/04/25.
Inspector	Anthony Abbott King

1.0 Site Location and Description

- 1.1. Number One Ballsbridge is a recently constructed mixed-use residential / office development with active commercial uses at ground floor level located between Pembroke Road and Shelbourne Road.
- 1.2. Apartment no. 89 is located in Building No. 2 of the development. Building No. 2 is accessed from a new street known as New Pembroke Street North (New Pembroke Square), which is a link pedestrian street between Pembroke Road and Shelbourne Road.
- 1.3. Building 2 is a multi-storey predominantly residential spine block (8 apartment floors) that stretches from Pembroke Road in a south-west / north-east direction toward the interior of the site accommodating commercial uses at ground floor level.
- 1.4. The ground floor uses in the immediate area are characterised by retail, hospitality and wellness.
- 1.5. The entrance lobby to Building No. 2 is located on the north-east facing corner of the new link street. Apartment no. 89 is located in part above the entrance lobby at first floor level.
- 1.6. The site area is given as 0.825 hectares.

2.0 Proposed Development

- 2.1. The development consists of a change of use of apartment no. 89 within the existing development to provide for use as a medical suite providing for a health screening clinic.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission.

The following is the reason for refusal:

(1) The application site is zoned Z1 with the objective 'to protect, provide and improve residential amenities'. The conversion of a residential apartment unit

to a medical suite would result in the loss of a residential unit at this upper floor location which would contravene the zoning objective of the site in protecting existing residential amenity and contravene Policy QHSN7, which seeks to resist the loss of residential uses at upper floors. The loss of a full residential apartment for a medical suite use, would by itself and by the precedent it would set for other development, seriously injure the amenities of property in the vicinity and would be contrary to the provisions of the Dublin City Development Plan 2022-2028, with respect to protecting residential amenity. The proposal would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The decision of the CEO of Dublin City Council reflects the recommendation of the planning case officer.

3.2.2. Other Technical Reports

No objection subject to condition.

3.3. Prescribed Bodies

N/A

3.4. Third Party Observations

There are no third party submissions on file.

4.0 Planning History

There is a complex planning history on site.

- Under reg. ref. 2134/17 planning permission was granted subject to 9 conditions for change of use of Apartment no. 89 from concierge to residential use on the 22nd March 2017, as an amendment to the previously approved parent permission Ref.4798/07/x1. The development to consist of the change

of use of a residents concierge office at first floor level to provide a 2-bed apartment of area 124 sqm involving the infilling of an additional 76 sqm of floorspace within the double height entry.

- Under reg. ref. ABP PL29S.228224 / Dublin City Council (DCC) 4798 /07 (subsequently extended under reg. ref. 4798/07/X1 until 7th September, 2019) the parent permission was granted for a comprehensive redevelopment of lands at the former Veterinary College, Shelbourne Road and no. 126 Pembroke Road, Ballsbridge for a mixed-use residential / commercial development.

5.0 Policy Context

Development Plan

The following policy objectives of the Dublin City Development Plan 2022-2028 are relevant (not exhaustive):

- **Zoning**

The relevant land-use zoning objective of the Dublin City Development Plan 2022-2028 is Z1 (Sustainable Residential Neighbourhoods): *to protect, provide and improve residential amenities.*

The vision for residential development in the city is *inter alia* one where a wide range of high quality accommodation is available within sustainable communities, where residents are within easy reach of open space and amenities as well as facilities such as shops, education, leisure and community services.

The proposed change of use to medical and related consultants is a permissible use.

- Section 4.2 (Strategic Approach) is relevant:

The overall zoning strategy is based on the following principles:

- *To ensure that land-use zoning across the city spatially facilitates the aims of the core strategy and the objective to develop a compact, connected, low carbon, and climatically resilient city.*

- *To ensure that land is appropriately zoned in order to accommodate the expected growth needs of Dublin City within the lifetime of the plan and to ensure the protection of community and social infrastructure, and critical ecosystems services, through the application of appropriate land-use zoning designations in order to provide adequate facilities and amenities to meet the growing needs of the city.*
- *To provide for balanced and sustainable development by promoting, in particular, a mixed-use pattern of development with a move away from more traditional forms of single mono-use zoning.*
- *To ensure that the most efficient use is being made of the city's land in line with the principles of the 15-minute city, and that the redevelopment of under-utilised and brownfield land is promoted in order to consolidate and add vitality to existing centres.*
- *To promote the intensification of development adjacent and close to public transport nodes and corridors in order to minimise trip generation and distribution and to promote sustainable compact urban form.....*
- **Strategic Considerations**

Chapter 2 (Core Strategy) of the Dublin City Development Plan 2022-2028 details the projected population targets for Dublin City, which are vertically aligned with national population projections.

Section 2.2.2 (Population and Housing Targets) states:

The NPF identifies a minimum target population of 1,408,000 (minimum target population) for Dublin City and Suburbs (including all four Dublin local authority areas) by 2040, representing a 20-25% population growth range from 2016.

Furthermore, Chapter 2, Section 2.7.4 (Development Management) states:

Development management will play a leading role in the implementation of the development plan on a site by site basis, ensuring that development applications (planning application, Part 8, Section 5 etc.) are in substantial

compliance with policies, objectives, and standards as set out in this development plan.

- **Quality Housing**

Chapter 5 (Quality Housing & Sustainable Neighbourhoods) Section 5.2 (Achievements) is relevant and *inter alia* states:

The City Council encourages residential development through its proactive land management policies and planning frameworks. In the period since the adoption of the 2016 Plan, the city has seen a significant increase in the delivery of new housing with 9,459 dwellings completed in the Dublin City Council area between Q1 2017 and Q4 2021.....

Section 5.5.2 (Regeneration, Compact Growth and Densification) is relevant. Objective QHSN7 states:

Upper Floors

To resist and where the opportunity arises, to reverse the loss of residential use on upper floors and actively support proposals that retain or bring upper floors into residential use in order to revitalise the social and physical fabric of the city through measures such as the Living City Initiative.

Dublin City Council will actively engage with property owners and other stakeholders at a national level to investigate other alternative measures in addition to the Living City Initiative to expedite bringing upper floors into residential use, and will be actioned by the City Recovery Task Force and its successor.

- **Development Management**

Chapter 15 (Development Standards), Section 15.14.6 (medical and related uses) is relevant and *inter alia* states:

Medical and related uses includes a wide range of services such as GP surgeries, medical centres, primary medical care facilities, dentists, beauty and aesthetic clinics, vets etc. all of which comprise of similar design standards and requirements.

Premises for medical related uses include a wide variety of building types, ranging from adaptations of domestic premises for single-handed practitioners to purpose-built premises for large group practices or units within a streetscape.

Dublin City Council will support the provision of medical related uses in urban villages and neighbourhood centres and within existing communities where appropriate

5.1. Relevant National & Regional Policy / Ministerial Guidelines (where relevant)

- The National Planning Framework (NPF) (Project Ireland 2040) (Government of Ireland 2018);
- The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly (EMRA) (June 2019).
- The Department of Housing, Local Government and Heritage 'The Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities', (15 January, 2024).

6.0 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.

See completed Form 1 on file.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal, prepared by Genesis Planning Consultants on behalf of the appellant, are summarised below:

- Ballsbridge is a key economic district within the city. The area has undergone significant change in recent years.

- Number One Ballsbridge is a socio-economic centre for the area with a mix of residential, office and commercial uses. The development location has a high level of connectivity and is 700m from Landsdowne Road DART station.
- Apartment No. 89 within the development is located on lands zoned Z1 (to protect, provide and improve residential amenities). Medical and related consultants are permitted uses under the zoning objective. The zoning does not include an objective that prohibits the change of use of upper floors to commercial use.
- Section 14.7.1 of the development plan states the vision for Z1 lands, which recognises that a range of uses are appropriate to enhance the amenity of the area. It is claimed the zoning objective has not been correctly applied or interpreted in the planning authority decision.
- The appellant cites a High Court judicial review case 'Michael Redmond & An Bord Pleanála' wherein at Paragraph 64 the question of material contravention of the zoning objective was considered. A zoning objective enjoys an enhanced status over that of other policies and objectives under a development plan.
- The appellant claims that the decision of the planning authority fails to apply the zoning provisions. There is no zoning objective contravened by the proposal as cited in the reason for refusal rather the vision for the zoning objective is met by the proposed development.
- The appellant cites the NPF over-arching national policy objectives 11, 26 and 28, relevant sections of the Dublin City Development Plan 2022-2028 promoting urban consolidation through compact growth of underutilised and brownfield lands, and relevant extracts from the Sustainable Residential Development and Compact Settlement Guidelines supporting mixed-use and intensification of development.
- The appellant cites development plan objectives SC9 (Key Urban Villages), SC11 (Compact Growth), QHSN11 (15-Minute City) and CEE30 (Hospitals & Healthcare) in support of the development proposal. It is claimed these objectives have not been referenced or considered in the planners report.

- The appellant claims that the provision of a medical suite is entirely appropriate in land use and location principles given that Number One Ballsbridge is a mixed use development and given identified local market demand for the medical screening service.
- The appellant has reviewed a 500m radius from the applicant site and highlight there are no such facilities in the area.
- The appellant claims that the rationale for the refusal reason is based solely on objective QHSN7 of the development plan. This is not a balanced planning decision and fails to recognise the enhanced status of the zoning objective, the strategic national policy context set by the NPF (and also the Section 28 Sustainable Residential Development Compact Settlement Guidelines), which seek the re-use of existing buildings and achieving an appropriate mix of uses to serve communities, and the legal planning principles on how a development plan is to be applied.
- It is claimed that objective QHSN7 (Upper Floors) does not have precedence over the zoning objective and does not exclude the change of use of upper floors. Furthermore, it does not have precedence over other objectives of the development plan and uses the wording to 'resist' rather than to 'prohibit' any other use at upper floor level.
- The appellant submits, citing Section 37 (4) of the Planning and Development Act in the matter of conflicting objectives, that objective QHNS7 on review conflicts with the area zoning objective and also conflicts with objectives SC9, SC11, QHSN11 and CEE30.
- The appellant also refers to sub-section 34 (2) (b a) of the Planning and Development Act citing the role of SPPRs where they differ from the provisions of the development plan.
- Section 15.14.6 of the development plan medical and related uses is cited noting that the development plan supports medical related uses in urban villages and neighbourhood centres and within existing communities where appropriate and in assessing proposals for conversions in residential areas

Dublin City Council will normally permit conversion of part of a dwelling to medical or related consultancy on conditionality.

- It is claimed that the small scale medical suite is an entirely appropriate and sustainable use within Apartment no. 89 consistent with Section 15.14.6 (medical and related uses) of the development plan given it will operate on an appointment basis and is in an ideal location served by public transport.
- It is also highlighted that the planners report does not deem the use as being unacceptable in terms of impact on the residential units within the apartment block as the refusal reason does not raise concerns about impacts on residential amenities.
- The appellant highlights the planning history of Apartment no. 89, which was the subject of a successful change of use application (DCC2134/17). The apartment serving as a concierge office from 2016-2019. It is claimed that a higher daylight performance is now required under the BRE Guidelines and Apartment Guidelines
- The appellant claims that Apartment no. 89 suffers from low levels of daylight ingress given its level 1 location, fenestration and north facing courtyard aspect. The unit was not designed originally as an apartment and does not meet BRE standards now applicable in terms of daylight performance internally.
- The appellant states that the planning history is relevant as the original planning permission of Apartment no. 89 as a concierge office sets the context for how this appeal is to be considered. It is claimed that Apartment no. 89 is wholly distinguishable from the other apartments in the building in terms of historical permission. Therefore, a change of use of the unit would not set a precedent for the other 88 units in the building.
- The appeal statement highlights for the information of the Board that the award winning Comer Group (owners of No. 1 Ballsbridge) are engaged in sizeable apartment development in Ballsbridge and in the Dublin environs (approximately 700 units), which address the concerns cited by the planning authority in the loss of a residential unit.

- Finally, the appellant notwithstanding the grounds of appeal on how the proposal is appropriate notifies the Board that the applicant is willing to accept a temporary permission for a period of five years, which will balance the establishment of the clinic and facilitate further review of the operation of the change of use.

7.2. Planning Authority Response

The planning authority request the Board to uphold their decision to refuse planning permission. If permission is granted a condition requiring a Section 48 development contribution should be applied.

7.3. Observations

None

8.0 Assessment

- 8.1. The following assessment covers the points made in the appeal submission and is an overall consideration of the application. It is noted there are no new matters for consideration.

Development proposal in context

- 8.2. The applicant proposes to change the use of an existing apartment unit no. 89 One Ballsbridge to a medical screening clinic, located within a strategically located mixed-use development between Shelbourne Road and Pembroke Road. The change of use floor area is given as 124 sqm.
- 8.3. The proposed change of use will accommodate a maximum 3 members of staff comprising a receptionist and 2 medical consultants. The unit would offer a health screening and medical referral service to private clients by appointment only. Medical procedures would be carried out at private hospitals elsewhere.
- 8.4. The proposed works will consist of a minor reconfiguration of internal walls with 3 number consultancy rooms provided on site. No facade works are proposed.

- 8.5. No parking would be provided given the small scale use proposed and the accessibility of the site.
- 8.6. The planning authority refused planning permission by reason of the loss of a residential unit at this upper floor location, which would contravene the zoning objective of the site: 'to protect, provide and improve residential amenities'. Furthermore, the change of use of an apartment to a medical suite would contravene Policy QHSN7, which seeks to resist the loss of residential uses at upper floors.
- 8.7. The appellant claims that medical & related consultants is a permissible use under the residential zoning objective that would enhance the use mix in the vicinity where local market demand for the clinical service is identified. The change of use would not have an adverse impact on existing residential amenities and should be granted planning permission.
- 8.8. Furthermore, appellant highlights that the planning history of the subject unit is a significant consideration given that the unit was originally a resident's concierge office under the parent permission (PL29S.228224- DCC 4798/07). The unit was granted a change of use to residential in 2017 (DCC 2134/17).
- 8.9. Finally, the appellant notwithstanding the grounds of appeal on how the proposal is appropriate notifies the Board that the applicant is willing to accept a temporary permission for a period of five years, which will balance the establishment of the clinic and facilitate further review of the operation of the change of use.
- 8.10. The proposed development with reference to the grounds of appeal is assessed under the following substantive headings:
- Principle of development
 - Principle of mixed use
 - Objective QHSN7
 - Loss of a residential unit

Principle of development

- 8.11. The first substantive ground of refusal cited by the planning authority is the loss of a residential unit at an upper floor location, which would contravene the zoning objective of the site.

- 8.12. The appellant claims that the proposed change of use is consistent in principle with the sustainable residential neighbourhoods zoning objective where medical & related consultants is a permissible use. The appellant claims that the planning authority erred in determining that the proposed change of use is a material contravention of the area zoning.
- 8.13. The appellant claims that a zoning objective enjoys an enhanced status over that of other policies and objectives under a development plan citing recent case law. Therefore it is claimed the change of use given its permissibility under the relevant area zoning objective should be granted planning permission.
- 8.14. The sustainable residential neighbourhoods zoning objective seeks to protect, provide and improve residential amenities. I note that the vision for residential development in the city is *inter alia* one where a wide range of high quality accommodation is available within sustainable communities, where residents are within easy reach of open space and amenities as well as facilities such as shops, education, leisure and community services.
- 8.15. I acknowledge that the development plan zoning strategy *inter alia* seeks to ensure that land-use zoning across the city spatially facilitates the aims of the core strategy, including ambitious housing targets.
- 8.16. I also appreciate that the complementary principles underpinning the zoning strategy seek to provide adequate facilities and amenities, to promote a pattern of mixed use development and to promote sustainable compact urban form aligned with the 15-minute city principle (see Section 4.2 of the Dublin City Development Plan 2022-2028).
- 8.17. I consider that the proposed change of use to medical suite for the purposes of health screening clinic would fall under the definition of medical & related consultants, which is a permissible use under the sustainable residential neighbourhoods zoning objective.
- 8.18. I therefore consider that the proposed change of use from residential to health screening clinic is acceptable in principle in terms of land use. However, a permissible use is one which is only acceptable in principle in the relevant zone subject to compliance with normal planning considerations, including the overall policies and objectives of the plan.

8.19. I interrogate the merits of the proposed change of use in my assessment below including the loss of the residential unit.

Mixed-use development

8.20. The appellant cites Section 15.14.6 (medical & related uses) of the Dublin City Development Plan 2022-2028 noting that the development plan supports medical related uses in urban villages and neighbourhood centres and within existing communities where appropriate.

8.21. The appellant claims that Number One Ballsbridge is a socio-economic centre for the area with a mix of residential, office and commercial uses. The development location within the inner suburbs of the city centre has a high level of connectivity.

8.22. The appellant claims that there is an identified local market demand for the medical screening service and that the proposed clinic at Number One Ballsbridge would be optimally located served by public transport.

8.23. The appellant has reviewed a 500m radius from the applicant site and highlights there are no such facilities in the area.

8.24. I note the proposed development is located within a network of pedestrian street(s). It is approximately 700m from Landsdowne Road DART Station and is accessible to the city core by high frequency bus QBC / cycle lanes.

8.25. The appellant cites development plan objectives SC9 (Key Urban Villages), SC11 (Compact Growth), QHSN11 (15-Minute City) and CEE30 (Hospitals & Healthcare) in support of the development proposal. It is claimed these objectives have not been referenced or considered in the planners report.

8.26. I note the cited development plan objectives promoting urban consolidation, mixed-use development and supporting medical infrastructure. I also note the nature of the proposed medical related consultant use.

8.27. I consider that a change of use to health screening clinic within this sustainable residential neighbourhoods zone accessible by frequent public transport would add to the mix of uses in the immediate area presently characterised by retail, hospitality and wellness.

Spatial mixed-use development at sustainable residential neighbourhood level

- 8.28. I acknowledge that the principle of mixed use development is an underpinning core objective of the development plan. I also acknowledge that an assessment of the compatibility of uses in close proximity is a key task of development management.
- 8.29. The appellant claims that there is no-where else to locate the medical suite and that locating the medical suite at a central location served by public transport is optimal.
- 8.30. The appellant has not provided a detailed sequential analysis of alternative locations. However, the appellant claims that all other units in Number One Ballsbridge are occupied and also all other lands owned by the landlord in the city environs.
- 8.31. The appellant claims, citing Section 15.4.6 (medical & related uses), that Dublin City Council in the assessment of proposals for change of use in residential areas will normally permit conversion of part of a dwelling to medical or related consultancy on conditionality.
- 8.32. I note that Section 15.4.6 (medical & related uses) flags that residential buildings do not, in general, lend themselves well to efficient use as medical consultancy practice.
- 8.33. Furthermore, I note the complete conversion of residential premises as a medical consultancy can have adverse impacts on the residential amenity of a residential area, such as security problems, which must be taken into consideration.
- 8.34. I acknowledge the arguments of the appellant in support of mixed use development within this mixed-use residential neighbourhood accommodating predominantly residential and office uses above ground floor commercial frontages.
- 8.35. However, I also recognise the specific location of the proposed change of use within an apartment building context where there are exclusive residential uses above ground floor level.

Vertical mixed-use within Building No. 2

- 8.36. The planning case officer considered that the exclusive residential use of the first floor of Building 2 should be maintained keeping commercial uses to the ground floor of the building.

- 8.37. The planning case officer considered that the change of use to a medical centre would detract from the residential amenity of the apartment building inconsistent with the residential zoning.
- 8.38. The appellant claims that the zoning does not include an objective that prohibits the change of use of upper floors of a multi-storey building to commercial use.
- 8.39. Furthermore, the appellant claims that the small scale medical suite is an entirely appropriate and sustainable use within Apartment no. 89 consistent with existing amenities given *inter alia* that the proposal is limited in scale and would operate on an appointment basis.
- 8.40. I noted on the day of my site visit that there is a dedicated concierge service located in the lobby of Building No. 2 monitoring access and egress to Apartment no. 89 and the other 88 number apartments located in Building no. 2
- 8.41. I further note that there is active supervision of the lobby entrance area by the concierge who requested the purpose of my visit after I entered the entrance lobby of Building No. 2.
- 8.42. I note that Apartment no. 89 is accessed via a first floor lobby, which is used by only one other apartment
- 8.43. Finally, no. 89 does not share a party wall with any other residential unit in the apartment building. The apartment is dual aspect with circulation areas and office use abutting the internal envelope of Apartment no. 89.
- 8.44. I would concur with the appellant that a change of use of Apartment no. 89 to a restricted medical related use would on balance be acceptable given that access to the unit would be restricted to staff (maximum 3 in number) and appointment only clients, the location and limited nature of the use comprising a floor area of 124 sqm and, the presence of a concierge in the entrance lobby monitoring access and egress to the building.
- 8.45. I consider on balance that no significant adverse impacts on existing residential amenities would result from the proposed change of use subject to potential additional sound insulation and granular security measures to protect the amenities of existing occupiers of Building no. 2 in terms of noise disturbance and personal security.

8.46. I consider that these are principally property management company considerations, which should not be retrospectively regulated by the planning system.

Regeneration, Compact Growth & Densification

8.47. The second substantive ground of refusal cited by the planning authority is that the change of use of an apartment to medical suite would contravene Policy QHSN7, which seeks to resist the loss of residential uses at upper floor level.

8.48. The appellant claims that the rationale for the refusal is based solely on objective QHSN7 of the development plan. The appellant claims that objective QHSN7 has been incorrectly applied by the planning authority to the effect of not correctly applying the area zoning objective, which in principle permits the development.

8.49. It is argued that this is not a balanced planning decision and fails to recognise the enhanced status of the zoning objective, the strategic national policy context set by the NPF (and also the Section 28 Sustainable Residential Development Compact Settlement Guidelines), which *inter alia* seek the re-use of existing buildings while achieving an appropriate mix of uses to serve communities.

8.50. I note that the National Planning Framework (NPF 2018) and the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region (EMRA) (2019) support ambitious urban consolidation and compact growth housing targets for Dublin city and its suburbs.

8.51. Housing numbers based on target populations are incorporated into the Dublin City Development Plan 2022-2028, which *inter alia* through development management is required to provide sustainable new homes targeting a 20-25% population growth range (for the four number Dublin local authorities) from 2016 to 2040.

8.52. The projected housing demand for the city identifies the need for 47,941 residential units from 2017 through to 2028 within the Dublin City Council functional area (Chapter 2 (Core Strategy) Dublin City development Plan 2022-2028 Pg. 46).

8.53. Section 5.5.2 (Regeneration, Compact Growth and Densification), objective QHSN7 (Upper Floors) of the Dublin City Development Plan 2022-2028 *inter alia* requires the planning authority to resist and where the opportunity arises, to reverse the loss of residential use on upper floors and actively support proposals that retain or bring upper floors into residential use.

Objective QHSN7

- 8.54. The appellant claims that objective QHSN7 (Upper Floors) does not have precedence over the sustainable residential neighbourhoods zoning objective and does not exclude the change of use of upper floors.
- 8.55. Objective QHSN7 does not it is claimed have precedence over other objectives of the development plan, including SC9 (Key Urban Villages), SC11 (Compact Growth), QHSN11(15-Minute City) & CEE30 (Hospitals & Healthcare), and uses the wording to 'resist' rather than to 'prohibit' any other use at upper floor level.
- 8.56. Finally, the appellant submits, citing Section 37 (4) (a) of the Planning and Development Act in the matter of conflicting objectives, that objective QHNS7 on review conflicts with the area zoning objective and also conflicts with objectives SC9, SC11, QHSN11 and CEE30.
- 8.57. The planning authority concluded that the loss of a full residential apartment for a medical suite use, would by itself and by the precedent it would set for other development, seriously injure the amenities of property in the vicinity and would be contrary to the provisions of the Dublin City Development Plan 2022-2028, with respect to protecting residential amenity.
- 8.58. I would concur with the planning case officer that the loss of a full residential apartment to provide a medical suite is a significant planning consideration.

Loss of a residential unit

- 8.59. I consider in terms of national, regional and local policy context there is a clear and transparent requirement to maintain, adapt and expand the housing stock. I consider that any reduction in the existing housing stock as proposed by this application would require a high benchmark in terms of justification.
- 8.60. I do not concur with the claims of the appellant that objective QHSN7 (Upper Floors) is a peripheral or marginal objective secondary to the substantive zoning objective and only notionally relevant.
- 8.61. I consider that objective QHSN7 must be read in the context of the overall policies and objectives of the Dublin City Development Plan 2022-2028, which requires a significant expansion of the housing stock within the city and its suburbs.

- 8.62. I consider that a loss of a residential unit is not aligned with the primary compact growth objectives of national, regional and local planning policy, which seeks an ambitious increase (20-25% population growth range from 2016) in the number of housing units in Dublin city and suburbs within the strategic timeframe horizon to 2040.
- 8.63. I note that the planning authority granted planning permission for the 2-bedroom 124 sqm. Apartment no. 89 on the 22nd March 2017. I consider that Section 5.2 (Achievements), Chapter 5 (Quality Housing & Sustainable Neighbourhoods) of the Dublin City Development Plan 2022-2028 is of particular relevance.
- 8.64. I note that the subject residential unit is one of the 9,459 new housing units delivered in the Dublin City Council area between Q1 2017 and Q4 2021 as cited in Section 5.2 (Achievements) of the Dublin City Development Plan 2022-2028 in response to ambitious housing targets.
- 8.65. I note that the appellant acknowledges the rationale for a compensatory residential unit(s) in exchange for the loss of the subject unit. The appellant cites the net gain represented by the construction of apartment units in the Dublin environs by the owner of No One Ballsbridge (the Comer Group), as a response to the loss of Apartment no. 89 in Ballsbridge.
- 8.66. I consider that the loss of a residential unit without a compensatory unit being provided on site is not an acceptable mitigation measure.

Residential amenity issues

- 8.67. The appellant claims that Apartment no. 89 suffers from low levels of daylight ingress given its level 1 location, poor fenestration and north facing courtyard aspect. The unit was not designed originally as an apartment and it is claimed does not meet BRE standards now applicable in terms of daylight performance internally.
- 8.68. I note that Apartment no. 89 served as a concierge office from 2016-2019. The residential status of the unit was granted in 2017 when a full planning assessment of residential amenity issues was made by the planning authority at that time (DCC2134/17). The unit was converted in 2019.

- 8.69. The subject unit is an existing authorised 124 sqm. two-bedroom apartment unit, which was converted from a first-floor concierge office and residual void spaces located above the ground floor reception area in 2019.
- 8.70. I do not consider that BRE standards now applicable in terms of daylight performance internally is a relevant matter in the assessment of this appeal for a change of use from a residential unit to a medical suite.
- 8.71. Finally, I have reviewed the floor plans of Apartment no. 89 on line (DCC2134/17). I can confirm that the authorised two-bedroom unit provides a high level of internal residential amenity in terms of internal configuration, floor area and dual aspect orientation.

Planning history & precedent

- 8.72. The appellant states that the planning history on site is relevant as the original planning permission of Apartment no. 89 as a concierge office sets the context for how this appeal is to be considered.
- 8.73. It is claimed that Apartment no. 89 is wholly distinguishable from the other apartments in the building and that a change of use would not set a precedent for the substantive development of 88 residential units granted under the parent permission given that Apartment no. 89 has a separate planning history.
- 8.74. I consider that the planning history of Apartment no. 89 is not a material consideration in the assessment of this appeal, which is for a change of use from residential unit to medical suite. The subject residential unit is an existing authorised in situ. 124 sqm. apartment unit.

Conclusion

- 8.75. I conclude that the proposed change of use is not a material contravention of the sustainable residential neighbourhood zoning objective, as 'medical and related consultants' is a permissible use under the area zoning. However, a permissible use is subject to assessment and consistency with the overall policies and objectives of the development plan.
- 8.76. In this regard, I consider that the proposed development would result in the loss of a residential unit inconsistent with objective QHSN7 (Upper Floors) of the Dublin City Development Plan 2022-2028, which requires the planning authority to resist and

where the opportunity arises to reverse the loss of residential use on upper floors and actively support proposals that retain or bring upper floors into residential use.

- 8.77. I consider that objective QHSN7 must be read in the context of the overall policies and objectives of the Dublin City Development Plan 2022-2028, including the core strategy of the development plan requiring a significant expansion of the housing stock within the city and its suburbs.
- 8.78. I consider that Section 5.2 (Achievements), Chapter 5 (Quality Housing & Sustainable Neighbourhoods) of the Dublin City Development Plan 2022-2028 is of particular relevance in the matter of the loss of the subject housing unit given that Apartment no. 89 is one of the 9,459 new housing units delivered in the Dublin City Council area between Q1 2017 and Q4 2021 in response to housing delivery targets.
- 8.79. I conclude that the proposed change of use would be inconsistent with the overall policies and objectives of the Dublin City Development Plan 2022-2028, by reason of the loss of a 124 sqm. 2-bedroom dwelling unit located at first floor level above the commercial street frontage. In specific the proposed change of use from apartment to a health screening clinic would be inconsistent with objective QHSN7, which protects and promotes the residential use of upper floors and, as such, would be inconsistent with the proper planning and sustainable development of the area.
- 8.80. Finally, in the matter of a temporary 5 year permission, the proposed change of use would result in the temporary or permanent loss of a residential dwelling unit, which would be unreasonable given population targets and housing delivery ambitions for Dublin City and suburbs.

9.0 AA Screening

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

The subject site is located within an established urban area and is connected to piped services and is not immediate to a European Site. The proposed development comprises a change of use of an existing constructed apartment unit.

No significant nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site given the small-scale nature of the development.

I conclude that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Recommendation

10.1. I recommend a refusal of planning permission for the reasons and considerations set out below.

11.0 Reasons and Considerations

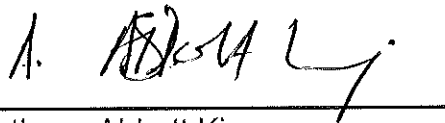
Having regard to the grounds of appeal, the sustainable residential neighbourhood zoning objective, the pattern of development in the area, characterised by multi-storey office and apartment buildings with active ground floor commercial frontages, and the policy framework provided by the Dublin City Development Plan 2022-2028, including the core strategy of the development plan which provides for ambitious population targets and housing delivery, it is considered that the proposed change of use of a two-bedroom 124 sqm. apartment to a medical suite use, providing a health screening clinic, would result in the loss of a residential housing unit inconsistent with the requirements of objective QHSN7 of the Dublin City Development Plan 2022-2028, which *inter alia* requires the planning authority to resist and where the opportunity arises to reverse the loss of residential use on upper floors, and, as such would be inconsistent with the proper planning and sustainable development of the area.

12.0 Refusal

1.	The proposed change of use from residential to a health screening clinic would be inconsistent with the overall policies and objectives of the Dublin
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	City Development Plan 2022-2028 by reason of the loss of an authorised 124 sqm. 2-bedroom residential unit located at first floor level above the commercial street frontage, known as Apartment no. 89, in specific the proposed change of use from apartment to medical suite would be inconsistent with objective QHSN7 of the Dublin City Development Plan 2022-2028, which protects and promotes the residential use of upper floors and, as such, would be inconsistent with the proper planning and sustainable development of the area.
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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.



Anthony Abbott King
Planning Inspector

22 April 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP321849-25		
Proposed Development Summary	Change of use from apartment to medical suite		
Development Address	Apartment No. 89, Building No. 2, Number One, Ballsbridge, New Pembroke Street North, Dublin 4.		
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	X
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	Tick/or leave blank		Proceed to Q3.
No	Tick or leave blank	N/A	Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank		EIA Mandatory EIAR required
No	Tick/or leave blank	N/A	Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	Tick/or leave blank	N/A	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?

No	x	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: A. ~~1188~~ 11 2j. Date: 02/04/25