



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305512-19

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<b>Development</b>	Change of use from residential apartment use to short term letting.
<b>Location</b>	49, Cherry House, Mespil Estate, Sussex Road, Dublin 4.
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	3483/19
<b>Applicant(s)</b>	Jerry Huysmans
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Jerry Huysmans
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18 <sup>th</sup> January 2020
<b>Inspector</b>	Donal Donnelly

## 1.0 Site Location and Description

- 1.1. The appeal site comprises a studio apartment (no. 49) within Cherry House in the Mespil Estate, Dublin 4. The Mespil Estate is located on Sussex Road (N11) immediately south of the Grand Canal and approximately 1.75km south of the River Liffey. There are approximately 400 apartments within 11 blocks in the estate ranging in height from three to seven storeys. There is a swimming pool, mature gardens and surface car parking within the complex. The main access is from Sussex Road to the west. It appears that the estate was developed between the 1950s and 1970s.
- 1.2. Cherry House is situated to the front (west) of the Mespil Estate fronting onto Sussex Road and located to the south of the main access to the complex. The apartment block is seven storeys and contains 69 no. units. No. 49 is an east-facing unit located on the fourth floor. The stated floor area of the unit is 31.3 sq.m.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the change of use of the existing residential apartment to use for short term letting.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Dublin City Council issued notification of decision to refuse permission for the proposal for the following reason:

*“The proposed development, by itself and by the precedent for which a grant of permission would set, would be contrary to the stated provisions of the Core Strategy of the City Development Plan 2016-2022, which recognises residential units as a scarce resource and which need to be managed in a sustainable manner so that the housing needs of the city are met. The proposed development, resulting in the permanent loss of one residential unit within an area designated as a Rent Pressure Zone, would also be contrary to the core principles of the Dublin Housing*

*Strategy 2016-2022 which requires that the planning and building of housing and residential space in the city contributes to sustainable and balanced development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.”*

### **3.2. Planning Authority Reports**

3.2.1. The recommendation to refuse permission in the Planner’s Report reflects the decision of the Planning Authority. The main points raised under the evaluation of the proposal are as follows:

- Need to balance competing demands of the city is acknowledged, including need to provide additional tourist accommodation.
- Development Plan also recognises that the shortage of supply of long term rental accommodation is a key challenge for the city.
- Proposal would result in existing residential housing stock being unavailable for the growing number of families and people who need it.
- Proposal would result in the loss of one apartment in a mature development – this is a concern to the Planning Authority having regard to the existing housing shortage.
- Subject site located in Rent Pressure Zone – extended to 2021 to reflect the continued shortage of long-term rental accommodation.
- Proposal is contrary to the Core Strategy which recognises that serviced residential lands are a scarce resource that needs to be managed in a sustainable manner so that housing needs of the city are met.
- Housing Strategy states that there is a pressing need to ensure a speedy, effective and sustainable set-up in future housing supply to catch up with the overheating segments of Dublin’s housing market and thereby reduce price inflation in owner-occupied and rental housing tenures.
- Scale of unmet housing need has grown over the period of the previous city development plan and requires an increase in housing output for social rental.

- Proposal would result in an unwanted precedent for similar type development in the area and an unacceptable loss of existing long-term rental property.

### **3.3. Third Party Observations**

3.3.1. Observations on the planning application received from the managing agent of Mespil Estate highlighted the following issues:

- Proposal would not be in the interests of the estate as a whole and would injure long term residents.
- Proposal would go against objectives of the Development Plan and set an unwanted precedent in a well-established and settled community.

## **4.0 Planning History**

4.1. There is a concurrent first party appeal by the same appellant for the change of use from residential apartment use to short term letting at No. 41 Rowan House, Mespil Estate (ABP-305510-19).

4.2. The Board issued refusals involving change of use proposals from residential to short term letting at Clarendon Street (ABP-304254-19), Ringsend Road (ABP-305457-19) and Temple Lane South (ABP-300516-17).

## **5.0 Policy Context**

### **5.1. Dublin City Development Plan, 2016-2022**

5.1.1. The appeal site is zoned “Z1” where the objective is “to protect, provide and improve residential amenities.”

5.1.2. Section 2.3.10 states that the creation of good neighbourhoods and socially inclusive communities is a priority for the Plan.

### **5.2. Natural Heritage Designations**

5.2.1. The Grand Canal proposed Natural Heritage Area is located approximately 60m north of Cherry House.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. A first party appeal against the Council's decision was submitted by the applicant. The grounds of appeal and main points raised in this submission are summarised as follows:

- Applicant offers a high-quality service and a unique art experience from his large scale digital paintings adorning the walls.
- A large proportion of applicant's income from short term letting is contributed to revenue.
- To date, there have only been two applications lodged for short term lets in the entire Mespil complex which comprises approximately 400 apartments.
- Small amount of housing in short term let will have little impact on issues such as rising rents and housing availability.
- Application should be assessed on its own merits and not from any predetermined view.
- There should be a precedent which favours those who have applied first for planning permission – any future applications could be regulated if there is an oversupply of short term rentals.
- Nature of short-term rental is not dissimilar to long term renting – applicant is not applying for total change of use.
- To date, there have been no complaints relating to nuisance, noise or disturbance.
- Unique location of Mespil Estate makes it ideal for the particular type of guest that the applicant has hosted – guests bring a lot of revenue to city centre businesses.

### **6.2. Planning Authority Response**

6.2.1. No response.

## 7.0 Assessment

7.1. I consider that the key issues in determining this appeal are as follows:

- Development principle;
- Impact on residential amenity;
- Appropriate Assessment.

### 7.2. Development Principle

- 7.2.1. The appeal site is zoned “Z1” (sustainable residential neighbourhoods) where the objective is *“to protect, provide and improve residential amenities.”* The provision of accommodation for short-term letting is not specifically listed as being a permissible use or a use that is open for consideration under this zoning objective.
- 7.2.2. It is a core principle/ objective of the Dublin Housing Strategy 2016-2022 *“to ensure the provision of good quality housing across owner-occupied and rental housing tenures in sustainable communities.”* The Council’s reason for refusal also refers to the core principle in the Housing Strategy *“to ensure the planning and building of housing and residential space in the city contributes to sustainable and balanced development.”*
- 7.2.3. The appeal site is located within an area designated as a Rent Pressure Zone under Section 38 of the Residential Tenancies (Amendment) Act, 2019. The amended legislative framework seeks to address accommodation shortages and the issue of potentially significant numbers of properties being withdrawn from the long-term rental market for short-term letting. A proposal such as this would result in the loss of a residential unit for long-term rental purposes and the setting of a precedent for increased housing shortages.
- 7.2.4. The applicant contends that this change of use application, and the concurrent proposal by the applicant under Ref. ABP-305510-19, are the only applications for short-term lets in the entire Mespil complex of approximately 400 units. A small amount of housing in short-term let is considered to have little impact on issues such as rising rents and housing availability. Furthermore, it is submitted that there should be a precedent that favours those who have applied first for planning permission and

any future applications could be regulated if there is an oversupply of short-term rentals.

- 7.2.5. In my opinion, an oversupply of short-term accommodation is secondary to the primary issue which is an undersupply of long-term rental accommodation. The loss of a single unit may appear insignificant in the context of the wider city or indeed the Mespil complex. However, the change of use of a single unit sets the precedent for further long-term rental units to be changed to short term lettings. There would also be adverse cumulative impacts within rent pressure zones if such a policy was adopted to allow a limited number of changes of use of apartments to short-term rental.

### **7.3. Impact on Residential Amenity**

- 7.3.1. The Mespil Estate is a mature residential development comprising approximately 400 apartments in 11 blocks that are predominately owner occupied or long-term private rented. The development is an early example of a higher density sustainable community that is centrally located and in proximity to good public transport links. This is a desirable location for permanent and convenient urban living.
- 7.3.2. Neighbourhoods develop over time as local residents become familiar with one another and relationships become established. The local community can be enhanced by the communal facilities on site, such as open space, meeting rooms, or in the case of the Mespil Estate, the swimming pool. The viability of services and facilities in the area in turn are supported by local residents. It is stated in Section 2.3.10 of the Development Plan that the creation of good, sustainable neighbourhoods which support thriving communities and provide for a wide range of household types, age groups and tenures with community facilities close by is a priority.
- 7.3.3. The proposal would see the introduction of transient and one-off occupants that do not contribute to the long-term sustainability of the local community. The precedent for increased short-term lettings would also erode the established neighbourhood structure and the viability of associated neighbourhood services and facilities. Furthermore, there is potential for increased noise and disturbance that may become more apparent in an existing quiet and settled neighbourhood.

#### **7.4. Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

#### **8.0 Recommendation**

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

#### **9.0 Reasons and Considerations**

The proposed development, by itself and by the precedent for which a grant of permission would set, would be contrary to the provisions of the Core Strategy of the Dublin City Development Plan 2016-2022, which recognises residential units as a scarce resource that needs to be managed in a sustainable manner so that the housing needs of the city are met. The loss of an apartment unit for residential use, would also be contrary to the core principles of the Dublin Housing Strategy 2016-2022 which requires that the planning and building of housing and residential space in the city contributes to sustainable and balanced development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Donal Donnelly  
Planning Inspector

20<sup>th</sup> January 2020