



An  
Bord  
Pleanála

## Inspector's Report PL29S.249430

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| <b>Development</b>                  | Change of use of 7 apartments to holiday/ business use and ground floor amendment to the elevation of the café/ retail unit. |
| <b>Location</b>                     | 98- 99 Francis Street, Dublin 8.   |
| <b>Planning Authority</b>           | Dublin City Council.   |
| <b>Planning Authority Reg. Ref.</b> | 3541/17.   |
| <b>Applicant(s)</b>                 | NCP Properties.  |
| <b>Type of Application</b>          | Permission.  |
| <b>Planning Authority Decision</b>  | Refuse.  |
| <b>Type of Appeal</b>               | First Party  |
| <b>Appellant(s)</b>                 | NCP Properties.  |
| <b>Observer(s)</b>                  | None.  |
| <b>Date of Site Inspection</b>      | 10 <sup>th</sup> of January 2018.  |
| <b>Inspector</b>                    | Karen Hamilton.  |

## 1.0 Site Location and Description

- 1.1. The subject site has a 5 storey building which fronts directly onto, and is located central along the western side of Francis Street, within the Liberties area, Dublin 8. The site is currently under construction (Reg. Ref 2896/13 & 2473/16) and comprises of a retail/ cafe on the ground floor and 7 no apartments on the upper floors. The buildings along either side of the site are of similar design and use, with cafe/ retail on the ground floor with residential on the upper floors.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise of:
- Change of use of 7 no apartments from residential units to short term letting for holiday and business use.
  - Amendments to the ground floor elevation for the café/retail unit (93m<sup>2</sup>).

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to refuse permission for one reason as stated below:

The proposed development, by itself and by precedent for which a grant of permission for it 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 scarce resources 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 loss of 7 apartment units for residential use, would be contrary to the principles of the Dublin Housing Strategy 2016-2022 which requires the 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. Planning Reports

The report of the area planner reflects the decision to refuse permission and refers to the following:

- The policies of the development plan in relation to the provision of housing and support for residential development (Section 2.3.10).
- The information contained in the Liberties and Newmarket Square LAP with regard to the support for communities and an appropriate mix of housing with an emphasis on accommodation for families, older people and those with mobility problems.
- Policy QH 3 (i) of the development plan which supports the implementation of the Housing Strategy, identifying the scale of unmet housing needs which has grown, and the need for housing output through social rental.

### 3.2.2. Other Technical Reports

Waste Management Section- No objection subject to conditions.

Drainage Division- No objection subject to conditions.

## 3.3. **Prescribed Bodies**

Transport Infrastructure Ireland- No objection subject to the inclusion of a Section 49 Levy on any grant of permission.

## 3.4. **Third Party Observations**

One submission was received from a resident in the vicinity in relation to the loss of accommodation, the accommodation crisis and the overconcentration of short term accommodation in the vicinity including student accommodation which prevents local communities from flourishing.

## 4.0 **Planning History**

## **2473/16**

Permission granted for modifications to previously approved permission (2896/13) for revisions to the stone façade at ground floor, the use of two separate brick finishes, amendments to balcony and alterations to front window design and materials.

## **2896/13**

Permission granted for the removal of gates and front wall and the construction of a five storey infill development comprising of a café/ retail unit on the ground floor and 7 no apartments above consisting of 3 no. 1 bed, 3 no 2 bed and 1 no 3 bed units. The permission included all ancillary development including open space, waste, bicycle parking etc.

## **5.0 Policy Context**

### **5.1. National Policy**

**Architectural Heritage Guidelines for Planning Authorities, 2004.** Development guidelines for Protected Structures and Areas of Architectural Conservation.

**Quality Housing for Sustainable Communities-** Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)

**Delivering Homes Sustaining Communities-** Statement on Housing Policy (2007).

**Rebuilding Ireland: An Action Plan for Housing and Homelessness:** An overarching aim of this action plan is to ramp up the delivery of housing from its current undersupply across all tenures.

### **5.2. Dublin City Development Plan 2016-2022**

The site is located within lands zoned Z4, District Centre, where it is an objective “*To provide for and improve mixed-use services*”

- District centres provide a high level of service for the community.
- Population: Establish significant residential population bases with diversity in unit types and tenures capable of establishing long-term integrated communities.

The site is located within the Strategic Development and Regeneration Area (**SDRA**) **16, Liberties and Newmarket Square**, therefore the following policies and objectives apply:

**Core Strategy:** Table E – Capacity of Sub-areas of the City for Residential Development include the capacity of the Liberties area to accommodate an additional 2,500 residential units over the lifespan of the development plan.

#### **Section 15.1.1.19** SDRA 16 Liberties and Newmarket Square

Overall guiding principles/objectives for housing and tourism within the LAP may be summarised as follows:

- To improve the quality of life so that the Liberties area becomes a great place for people to live, work and visit.
- To provide for a wide diversity and choice of housing that can cater for families and older people by including options for mixed tenure and a range of housing types and unit sizes.
- To improve and encourage the cultural and tourist offer of the area.

#### **Appendix 2 (A) and (B):** Housing Strategy

Objective QH 6:

“To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive City.

Objective QH 24:

“To resist the loss of residential use on upper floors and actively support proposals that retain or bring upper floors above ground floor premises into residential use in order to revitalise the social and physical fabric of the city through measures such as the Living City Initiative.....”

The site is located within the **Thomas Street ACA**, therefore the following policies apply:

**CHC4:** To protect the special interest and character of all Dublin’s Conservation Areas. Development within or affecting a conservation area

must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

**Appendix 24:** Protected Structures and Buildings in Conservation Areas.

### 5.3. **Natural Heritage Designations**

None relevant.

## 6.0 **The Appeal**

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

The grounds of appeal are submitted by an agent on behalf of the applicant and may be summarised below:

- The Planning Authority had no grounds for refusal and if the use of the Dublin Housing Strategy 2016-2022 is used as a reason all applications should be refused.
- The key issue is in regard to the Core Strategy and the scale of the proposed development. The 2016 Census indicates only 12 homes in the immediate ED as holiday homes.
- The apartments have not been occupied and therefore the residential use has not been established.
- “Bed and Breakfast” and “Guesthouse” are permissible uses within the Z4 zoning on the site which have similar characteristics to short-term letting. The zoning also permits mixed use as per District Centre.
- A review of the Airbnb website indicates a number of short-term lettings within the wider area, none of which appear to have planning permission therefore it is unclear if they are authorised.
- The proposed development includes changes to the ground floor to include a central entrance and larger window. This development was not referenced in the planning authority decision.

- There will be no physical works for the proposed change of use of the 7 no apartments.
- One third party submission raised concern on the over – provision of short term lettings in the city although this has not been legitimised.
- It is questionable if the proposal should be refused for matters which are not in the control of the applicant, i.e. being the lack of enforcement for unauthorised development in the vicinity.
- The current scale of the proposal (7 apartments) in the context of Section 2.3.10 and Policy QH3 of the development plan in relation to the implementation of national legislation and the Dublin Housing Strategy is questioned. The scale of development will not conflict with the policies of the development plan.

## 6.2. **Applicant Response**

The appellant is the applicant.

## 6.3. **Planning Authority Response**

None received.

## 6.4. **Observations**

None received.

## 7.0 **Assessment**

7.1. The main issues of the appeal can be dealt with under the following headings:

- Development Plan Compliance
- Impact on the Built Heritage
- Appropriate Assessment

## **Development Plan Compliance.**

- 7.2. The proposed development is for two amendments to a recently granted permission (2896/13), alterations to the ground floor façade for the retail/ café unit and the change of use of 7 no apartments from residential to short term letting, and subsequent amendments (2473/16). The site is zoned as Z4, District Centre, where it is an objective “*To provide for and improve mixed-use services*”. The grounds of appeal note the alterations to the ground floor façade are not addressed in the Planning Authority decision and having regard to the zoning on the site and the existing permitted development, I consider the principle of development of the alterations acceptable, subject to the impact on the built heritage, discussed separately below.
- 7.3. The Planning Authority refused the change of use of the 7 no apartments because the loss of residential units would be contrary to the core principles of the Core Strategy and Housing Strategy in the development plan. The grounds of appeal argue that use reference to the Housing Strategy as a reason for refusal is not planning related. The grounds of appeal note the Z4 zoning on the site permits “Guesthouse” and “Bed and Breakfast” which have similar characteristics to the proposed development and that there is currently a large number of Airbnb properties in the vicinity, mostly unauthorised.
- 7.4. Zoning: The District Centre zoning on the site allows for a mix of uses which support a high level of service to the communities. A key consideration for future development within this zoning includes the establishment of a significant residential population base with a diversity of unit types and tenures capable of establishing long term integrated communities. The reason for refusal refers to the need to protect residential units as scarce resources.
- 7.5. The grounds of appeal argue the zoning allows for “Bed and Breakfast” and “Guesthouse” which have similar qualities to the proposed short term lettings proposed for the apartments and refer to the amount of short term lettings e.g. Airbnb in the vicinity of the site. I consider short term letting/ business use allows for the continuous change of occupants similar to a guesthouse, although I consider the use of units for short term letting e.g holiday/ business use have characteristics more akin with Aparthotels. Appendix 16 of the development plan includes guidance for



aparthotels where a fully serviced reception desk, administrative facilities, security etc. are provided, as a minimum. A recent grant of permission (29S.248680) on lands zoned Z5, 200m north of the site includes a purpose built aparthotel with 298 units, which I consider will cater sufficiently for the needs of the tourism within the surrounding area.

- 7.6. I note the pattern of development in the vicinity of the site, including ground floor commercial with residential units on the upper floors, are similar to the existing permitted development (Reg. Ref 2896/13) and subsequent modifications, which I consider an appropriate development for a mid-terrace site along Francis Street. In addition, I consider the existing permission for residential units necessary to comply with the mixed-use Z4 zoning on the site, in particular support for establishing long term communities.
- 7.7. Therefore, having regard to the loss of all the residential units for housing, the pattern of development in the vicinity, the objectives supporting the Z4 zoning objective and the criteria for aparthotels in Appendix 16 of the development plan I do not consider the principle of the change of use from residential to short term letting for holiday/ business use compatible with the Z4 zoning objective at this location.
- 7.8. Core Strategy: The policies and objectives of the development plan are supported by the Core Strategy which focuses on addressing the current housing crisis by providing for a range of houses and apartments for diversity and tenure. The grounds of appeal argue the proposed development only accounts for 0.17% of the overall housing requirement for the city for 2017 (4,217 housing units) and therefore minor. Section 2.2.3 of the development plan promotes the settlement strategy for the City and the site is located in the Liberties Strategic Development and Regeneration Area (SDRA 16) where the required number of residential units to be provided during the lifespan of the development plan is 2,500 with the provision of residential units a key consideration.
- 7.9. Section 2.3.11 of the development plan refers to land use objectives of the plan which support the population targets of the Core Strategy. The subject site is a mid-terrace unit and the pattern of development in the immediate and surrounding area is of a similar nature. The precedent for conversion of residential units for short term letting in Dublin City Centre, such as those highlighted by the appellant, is such that

the provision of residential units required under the Core Strategy may be compromised and in turn the under provision of residential units, in the immediate area, would exacerbate the housing crisis. Whilst I note the appellant refers to other similar developments in the vicinity, namely Airbn, the location and operation of these has not been used as a reason for refusal and it is noted that the appellant has referred to these commercial activities as unauthorised.

- 7.10. Therefore, having regard to the inclusion of the site in the Liberties (SDRA 16) where the provision of residential units is a key consideration of the settlement strategy which is the basis of the Core Strategy, I consider the proposed change of use from residential units to short term letting/ business use would set an undesirable precedent for similar types of developments in the vicinity and would be contrary to the principles of the Core Strategy within the Dublin City Development Plan 2016-2022.
- 7.11. Housing Strategy: The reason for refusal refers to the principles of the Housing Strategy which requires the building of housing and the provision of residential space for a balanced development. The grounds of appeal argue that the basis of the Housing Strategy as a reason for refusal is unacceptable. The Housing Strategy for Dublin City is detailed in Appendix 2 (A) and (B) of the development plan and provides details on the quantum, location and provision of housing within Dublin which assumes that 50% of the mixed-use development within the city would be in residential use. Section 2.3.3, Promoting Quality Homes, of the development plan refers to the delivery of the housing strategy to help meet the needs of those on lower incomes and special circumstances across the city.
- 7.12. Specific objectives included in the Housing Strategy such as QH 6 , “.....provision of a variety of housing types and tenures with supporting community facilities, public realm and residential amenities...” and QH 24, “To resist the loss of residential use on upper floors and actively support proposals that retain or bring upper floors above ground floor premises into residential use.....” are applicable to the proposed development. I do not consider the loss of a 7 no apartment units for short term letting/ business use compatible with polices QH 6 or QH 24.
- 7.13. Therefore, having regard to the necessity for the provision of residential development within the Z4 zoning objective, to achieve the housing requirement targets set out in

the Housing Strategy, and objectives QH 6 and QH 24 for supporting communities and resisting the loss of residential units, I consider the proposed change of use of the apartments from residential use for short term letting/ business use is a material contravention of the Housing Strategy for Dublin City.

- 7.14. Liberties and Newmarket LAP: Section 15.1.1.19 of the development plan contains the overall objectives for housing in the LAP area, where the provision of a wide diversity and choice of housing to cater for families and older people, including mixed tenure and a range of housing types and unit size is required. I consider the identification of the site for regeneration further restricts the conversion of residential units for holiday letting as I do not consider this business use would support the existing and emerging communities in the Liberties area.
- 7.15. Therefore, having regard to the overall objective of the Liberties and Newmarket LAP to support and the communities by providing a wide diversity and choice of housing, I consider the proposed change of use of the 7 no apartments for use as short term letting/ holiday accommodation contrary to the policies and objectives of this LAP

### **Built Heritage**

- 7.16. The site is located within the Thomas Street ACA and adjoins a protected structure (No 100). Policy CHC4 of the development plan requires all proposed developments to protect the special interests of conservation areas and protected structures. Alterations to the ground floor façade include the repositioning of the entrance door in a central location and an increase in the width of the window on the southern section of the facade. The design, materials and signage of the remaining façade will be the same as previously granted in Reg. Ref. 2473/16, which I consider respects the proportions of the facades on either side. The report of the planning authority did not refer to the proposed alterations in the reason for refusal. Therefore, having regard to the, planning history and the design of the proposed amendments I do not consider the proposed alterations on the ground floor façade would have a negative impact on the character and setting of the adjoining protected structure or Architectural Conservation Area.

### **Appropriate Assessment**

- 7.17. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, no

Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

## 8.0 Recommendation

- 8.1. GRANT permission for the alterations to the ground floor façade in accordance with the said plans and particulars based on the reasons and considerations marked (1) under. REFUSE permission for the change of use from residential to holiday/business use for the reasons and considerations marked (2) under.

### Reasons and Considerations (1)

Having regard to the planning history on the site, the policies of the development plan and the design, it is considered the proposed alterations would not have a negative impact on the character and setting of the adjoining protected structure or the Architectural Conservation Area and would be in accordance with the proper planning and sustainable development of the area.

### Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permissions granted under planning register reference number 2896/13 and 2473/16, and any agreements entered into

thereunder.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permissions.

## **Reasons and Considerations (2)**

Having regard to the location of the site within the Liberties Strategic Development and Regeneration settlement area and on lands zoned, Z4, in the Dublin City Development Plan 2016-2022, where it is an objective to support the provision of a diversity of unit types and tenures capable of establishing long-term integrated communities, it is considered that the proposed development, which would remove the provision of residential accommodation in Dublin City Centre, would contravene materially the following:

- (a) The settlement strategy of the Core Strategy,
- (b) The Housing Strategy, in particular Policy QH 6 and QH 24,
- (c) The guiding principles of the Liberties and Newmarket Square LAP.

Accordingly, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

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Karen Hamilton  
Planning Inspector

24<sup>th</sup> of January 2018