



An  
Bord  
Pleanála

## Inspector's Report ABP-301673-18

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<b>Development</b>	Extension and change of use from offices to Student Accommodation
<b>Location</b>	No. 296A, North Circular Road, D7
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	2410/18
<b>Applicant(s)</b>	Kelly and O'Callaghan Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission for 1no. reason
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Kelly and O'Callaghan Ltd
<b>Observer(s)</b>	Brendan & Anne Curran
<b>Date of Site Inspection</b>	24/10/18
<b>Inspector</b>	John Desmond

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## 1.0 Site Location and Description

- 1.1. The application site is located in Phibsborough to the northwest of the city centre, fronting onto the North Circular Road to the north, at the junction with Avondale Road to the east, c.270m east of Phibsborough Luas stop and c.100m west of the NCR / Phibsborough Road junction and directly opposite (south of) St Patrick's Church. The premises backs onto a mews lane directly.
- 1.2. The application relates to an end-of terrace, 3-storey, redbrick, corner site building dating probably from the interwar period, forming part of a formal arrangement of 7no. buildings (some since amalgamated) in a neighbour centre-type block, the integrity of which has largely been retained. The subject building has been extended to the east side by three storeys and to the rear by 2-storeys in a style similar to that of the original. There is a small yard remaining to the rear at the southwest corner. The ground floor level accommodates a commercial retail unit at ground floor level and office use indicated above. The flat roofs of the building are screened by a parapet wall and the main structure accommodates a substantial telecommunications antennae-support structure to which a plethora of telecommunications equipment are attached.
- 1.3. The building abuts the public footpath to the front and side and the mews lane to the rear, beyond which are located 2-storey terraced dwellings.

## 2.0 Proposed Development

### 2.1. Summary description

- Change of use from offices to 2no. student accommodation apartments with a total of 9no. student bedrooms at first and second floor levels;
- Extension at first floor elevation to provide student common room;
- Second floor roof terrace;
- Alter rear return to elevate a portion of roof and existing roof level gantry;
- Amend existing rear facing windows and provide new rooflight;
- All associated works.

## 2.2. Supporting documentation

- *Cover letter* prepared by DJI-Group
- *Student Accommodation Management Plan* prepared by Kelly & O'Callaghan Chartered Quantity Surveyors & Construction Consultants.
- *Letter from Kelly & O'Callaghan Consultants* indicating DIT Grangegorman support the application and that the applicant intends to lease the accommodation to students within the academic year.
- *Design Statement*, inclusive of internal and external 3D images of the proposed scheme, prepared by DJI-Group.
- *Satellite map images*, including indicating third level educational institutions and existing student accommodation within 1km radius of site, prepared by DJI-Group.

## 3.0 Planning Authority Decision

### 3.1. Decision

To **REFUSE** permission for 1no. reason which related to the proposed accommodation not being high-quality professionally managed, purpose-built 3<sup>rd</sup> level student accommodation, by reason of lack of on-site reception, security and management, contrary to s.16.10.7 of the Development Plan.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the planning officer is consistent with the decision of the planning authority and the detailed reason for refusal.

#### 3.2.2. Other Technical Reports

Road Planning Division (12/04/18) – No objection subject to 2no. standard conditions.

Drainage Division (27/03/18) – No objection subject to standard conditions.

### 3.3. Prescribed Bodies

TII (27/03/18) – No objection subject to attachment of s.49 levy condition unless exempt.

### 3.4. Third Party Observations

Observations were received from Keith Kelly (of no.296B North Circular Road, adjacent property to west), Brendan & Anne Curran (of no.25 Avondale Road, neighbouring property to south), Geraldine Lardner & Ronan Scaife (of no.11 Cherrymount Park, D7), Marie Sherlock (of no.9 Great Western Square), and Cabra Road Residents Association. The main issues raised, in addition to those repeated in observations to the appeal, summarised in section 6.2 below, can be summarised as follow:

- Excessive amount of student accommodation proposed in the area, with transitory occupants, in addition to hostel accommodation.
- Unable to achieve apartment standards so applies lower standards to student accommodation.
- Poor standard of development – poor internal circulation space, access, light access and ventilation, kitchen and sanitary facilities, does not comply with CDP standards for floor space, disabled access.
- Impact of rooftop terrace on neighbouring residential amenities.
- No oversight by caretaker manager.
- Nuisance from bicycles and rubbish bins access.
- Excessive number of units on small site.
- Alleged structural damage to neighbouring property and the internal party wall from structural support beams associated with existing antenna support structure, with poor noise insulation; and drainage problems associated with construction of extension over drainage infrastructure.

## 4.0 Planning History

### On site

**Reg.Ref.3929/17** – Permission **REFUSED** by the planning authority (20/11/17) for a change of use to student accommodation for reason of its lack of adequate recreational facilities and on-site facilities for reception, security or management, contrary to the Section 16.10.7 of the Plan.

**Reg.Ref.5368/05** – Permission **GRANTED** for provision of metal gantry above permitted 2-storey rear extension.

**Reg.Ref.5361/04** – Permission **GRANTED** for 3-storey side extension and 2-storey rear extension, with retail at ground and offices above, with relocated telephone area and mobile phone equipment area. Condition no.5 required proposed rear store area increased to at least 2m in width.

## 5.0 Policy Context

### 5.1. Development Plan

Land use zoning objective Z1 '*to protect, provide and improve residential amenities*'.

**S.5.5.12 Student Accommodation: Policy QH31** To support the provision of high-quality, professionally managed and purpose built third-level student accommodation on campuses or in appropriate locations close to the main campus, in the inner city or adjacent to high-quality public transport corridors and cycle routes, in a manner which respects the residential amenity and character of the surrounding area, in order to support the knowledge economy. Proposals for student accommodation shall comply with the 'Guidelines for Student Accommodation' contained in the development standards.

### **S.6.5.5 Employment, Enterprise and Economic Development Sectors:**

**Objective CEE19 (i)** To promote Dublin as an international education centre/student city, as set out in national policy, and to support and encourage provision of necessary infrastructure such as colleges (including English language colleges) and high quality, custom-built and professionally managed student housing. **(ii)** To recognise that there is a need for significant extra high-quality, professionally-

managed student accommodation developments in the city; and to facilitate the high-quality provision of such facilities

#### **S.16.10.7 Guidelines for Student Accommodation** (varied by Variation No.3)

#### **Appendix 21 Land-Use Definitions: Student Accommodation**

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

South Dublin Bay and River Tolka Estuary SPA (c.3.1km to the east)

## **6.0 The Appeal**

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

The grounds of the first party appeal, submitted c/o Thornton O'Connor Town Planning, may be summarised as follow:

- The proposed development represents high-quality, professionally managed, purpose-built third-level student accommodation.
- The applicant was advised in pre-planning consultation subsequent to previous refusal reg.ref.3929/17 that the planning authority would be positively disposed to a new application if communal amenity space and a reception could be provided onsite, which was addressed in the revised application subject of this appeal.
- High quality scheme designed by DJI Architects (illustrations attached), with redesign and refurbishment of original building fabric to ensure a comfortable space for student occupants.
- Viable use of building vacant for past three years.
- The applicant is committed to providing appropriate security and management measures as set out in the student accommodation management plan (prepared by Kelly & O'Callaghan Student Management Company) submitted with the application, with security on site 9am-5.30pm weekdays and security and emergency maintenance services outside core hours and 24-hour CCTV monitoring by management company and security guards.

- The planning officer's report conflicts with the reasons for refusal in relation to what constitutes high-quality professionally managed, purpose-built facility and concerning provision of on-site reception, security and management, which is implied as being over what would be expected for a small student scheme.
- It is acceptable to provide offsite security outside of office hours for a small scheme, as had been detailed and proposed as part of the application and would be enforceable under condition no.1 of the permission.
- It should not be a requirement that purpose-built student accommodation must be new-build. Policy CEE19 of the Development Plan refers to promoted student accommodation as 'custom built'. This means that it be built to fit the needs of the person. The existing building fabric will be completely re-tailored to provide accommodation for the needs of students to address the current shortfall.
- There are many successful, small student accommodation schemes operating in the city, including nos.52/54 Botanic Avenue (PL29N.201254).
- The proposed development is in accordance with Development Plan standards, policies and objectives (QH31, s.16.10.7). The applicant has submitted a letter indicating that it has consulted with DIT Grangegorman who support the application and that is the intention to lease accommodation to students within the academic year.
- It will provide custom-built student accommodation and free-up existing housing stock currently occupied by students to help ease the housing crisis, as recognised the Board in previous decisions for student housing (PL28.245912) and Government documents and strategies, including the NPF s.6.6, all of which aim to increase the supply of housing including student accommodation.



## 6.2. Observations

The main issues raised in the observation received from Brendan and Anne Curran of no.25, Avondale Road, c/o Bluett & Donoghue Architects, may be summarised as follow:

- Larger projects recently permitted in the city lend themselves to more rigorously-managed facilities that make a positive contribution to the community.
- Internal layouts are of poor quality, with shared access to very small shower rooms and no en-suite bedrooms.
- 2<sup>nd</sup> floor unit has only 1no. WC facility serving 4no. bedrooms and is contrary to CDP guidelines and is an unworkable and substandard arrangement.
- 2<sup>nd</sup> floor bedrooms are very cramped and awkwardly laid out, with in-room circulation virtually impossible.
- 2<sup>nd</sup> floor shared kitchen / living / dining room is very cramped, and the common room is well below standard, including through access to light.
- No natural light to the narrow internal corridors.
- No disabled access as required under CDP guidelines.
- CDP guidelines require 55-sq.m for 3-bed unit and 160-sq.m for 8-bed units, or an average of 20-sq.m per bedspace compared to 16.8-sq.m for the proposed second floor unit.
- Intensification of use of laneway to the rear of the observer's home (for bicycle and refuse storage access), resulting in noise and litter nuisance, exacerbating existing problems with delivery trucks using the lane and causing a traffic hazard.
- Substandard entrance at 1,045mm compared to 1200-1400mm for newbuild, with no provision for collection and storage of post, and raising fire safety concerns.

- Visual impact of balconies to rear on Avondale Road, exacerbating impact of existing antennae support structures and air conditioning units (noise also) on the adjacent Z2 residential conservation area.
- Does not provide for removal of roof antenna to compensate for intensification of use.
- Deficient application – cycle parking and refuse storage not included in the application; the substantial roof antenna not shown on elevational or section drawings.

## 7.0 Assessment

The main issues arising in this case may be addressed under the following headings:

- 7.1 Policy
- 7.2 Development standards
- 7.3 Impact on residential amenities
- 7.4 Contributions
- 7.4 Environmental Impact Assessment Screening
- 7.5 Appropriate Assessment

### 7.1. Policy

- 7.1.1. The proposed development is consistent with Council policy QH31 to support the provision of student accommodation under S.5.5.12 Student Accommodation, and objective CEE 19 under s.6.5.5 Employment, Enterprise and Economic Development Sectors to promote Dublin as an international education centre/student city and to support and encourage provision of necessary infrastructure such high quality, custom-built and professionally managed student housing. In this regard I would accept the appellant's submission that custom-built doesn't mean that it has to be a new build project but can encompass the renovation of existing buildings also.
- 7.1.2. The land use zoning objectives under the Development Plan only explicitly provides that student accommodation is permitted in principle on lands zoned Z15. On other lands, including the subject Z1 lands, student accommodation is neither listed as

permitted in principle or open for consideration. However, as a residential use it may be considered permitted in principle with the Z1 zone, the objective of which is '*to protect, provide and improve residential amenities*'.

- 7.1.3. The Planning Authority raised no issue with the principle of the use on this site, including with reference to any potential overconcentration of student accommodation within 250m and 1km as referred to under the Guidelines under s.16.10.7 of the Plan (as indicated in drawing no.1712-PP-14 rev.01), although the planning assessment noted the drawing only indicated existing, not permitted facilities. In this regard, a notable omission is the Phibsborough Shopping Centre development which provides for in excess of 330no. student accommodation bedspaces. I am satisfied that a small student accommodation facility of the scale proposed will not result in an overconcentration of student accommodation in the area.
- 7.1.4. I consider the proposed use to be positive addition to the area and a beneficial use of a currently underutilised building and to be acceptable in principle. Should the Board decide to grant permission, a condition should be attached restricting the use to use as student accommodation and prohibiting a change of use to standard residential use without a prior grant of planning permission as per the provisions of s.16.10.7 of the Plan.

## **7.2. Development standards**

- 7.2.1. The planning authority's reason for refusal was on grounds of not being high-quality professionally managed, purpose-built 3<sup>rd</sup> level student accommodation, by reason of lack of on-site reception, security and management, contrary to s.16.10.7 of the Development Plan. The planning assessment did not raise issue with compliance with the Plan's quantitative standards and stated that the proposed units appear to meet Development Plan standards. Observers to the application and to the appeal submit that the standards are not met, including minimum floor areas and for sanitary, access and shared space facilities.
- 7.2.2. The standards for student accommodation are set out under s.16.10.7 Guidelines for Student Accommodation, including general principles - appropriate accessible locations, respect existing residential amenities, make a positive contribution to the

built environment, optimum orientation for access to daylight and open space, no overconcentration within 1km, communal facilities and services to serve the needs of students including laundry facilities, caretaker/ security and refuse facilities on site or nearby within a campus setting; and quantitative standards – minimum of 3-bed space (55-sq.m) maximum of 8-bedspaces (and/or 160-sq.m) per accommodation; minimum area of communal/recreational facilities – indoor and outdoor combined - 5-7-sq.m per bedspace; minimum 8-sq.m single-bedroom /study or 12-sq.m for bedroom / study en-suite, minimum 4-sq.m per bedspace for shared kitchen / living / dining excluding circulation space, and minimum of 1 bathroom per 3-bedspaces if not en-suite.

7.2.3. It is also a requirement that the application be accompanied by documentation outlining how the scheme will be professionally managed including confirmation that all occupiers will be students registered with a third-level institution and an outline of how the scheme will support integration with the local community, through its design and layout. A detailed Student Accommodation Management Plan was submitted with the application which is a standard approach operated across all sites managed by Kelly and O’Callaghan Management Company. The main points include: property management staff on site from 9.00am-5.30pm weekdays, with flexibility to cover peak times; CCTV monitors throughout the building with no blind spots; and out-sourced overnight and weekend security provided with CCTV feeds; cleaning staff outsourced; and tenancy agreements to apply. The appellant refers back to this document in the grounds of appeal. I consider it reasonable that off-site security and management facilities are employed to service a student accommodation facility of this limited size, which would allow the operator to manage dispersed student accommodation.

7.2.4. Regarding quantitative standards, the two units are within the range of bedspaces and gross floor areas allowed. The 2<sup>nd</sup> floor unit comprises a 4-bed unit (all singles; 67-sq.m GFA) with floor space to each room indicated as compliant with the minimum 8-sq.m, however the arrangement of all but one of the bedrooms are irregular to highly irregular such would, in my opinion, reduce the amenity of the bedrooms. In addition, the unit is provided with only one very small toilet (1.5-sq.m stated GFA, or c.2-sq.m inclusive of hotpress) and a separate very small shower room (1.85-sq.m stated GFA) – in the context it is not reasonable to consider these

to each constitute a 'bathroom'. The unit is therefore substandard the requirement that no more than three bedrooms are served by a single bathroom. In addition, the dimensions of the sanitary facility rooms are very restrictive (stated c.0.785m WC width and measured c.0.85m shower room width) such that the utility of the facilities would appear to be significantly compromised. Although no minimum bathroom size or dimensions are specified, some indication of an appropriate minimum may be garnered from the Development Plan standards which require a single bedroom with en-suite facilities to have an additional 4-sq.m GFA over one without. The unit achieves the minimum 16-sq.m GFA for kitchen / living / dining.

- 7.2.5. The first-floor unit comprises a 5-bed unit (all singles; c.98-sq.m GFA) with floor space to each room indicated as compliant with the 8-sq.m minimum and the rooms benefiting from more regular dimensions. 2no.bathrooms (shower and toilet) are provided, each of reasonable size and dimension. The kitchen / living / dining space is of c.26-sq.m GFA (in excess of the 20-sq.m minimum) and is of good and regular dimensions. And in terms of communal / recreational facilities, the second-floor level roof terrace (28-sq.m) and first floor common room (27-sq.m) shared between both units meets the minimum requirement between the two units. The common room has poor access to light has no outlook, being served by 1no. small high-level window and a roof-light. A window of standard cill height would improve its amenity value, in addition to providing passive surveillance of the adjacent lane.
- 7.2.6. The proposed second floor unit is a substandard unit, with an inadequate quantity of bathroom facilities for a unit of the size proposed, bathroom facilities of questionable utility in terms of dimension, in addition to bedroom and living space of reduced amenity value due to their irregular floor space layout and / or restricted dimension, contrary to Development Plan standards and would therefore be contrary to the zoning objective Z1 '*to protect, provide and improve residential amenities*'. Should the Board decide to grant permission I would advise that a condition be attached for the agreement of the planning authority, requiring revised layout plans for the 2<sup>nd</sup> floor unit, reducing it to a 3-bed space unit and providing improved / larger bathroom facilities. Whilst an improved kitchen / living / dining space (in terms of dimensions and layout) would be reasonable, with a reduction to 3-bedspaces the said proposed space would be acceptable. In addition, the amendments should also provide a window of standard cill height to the common room.

### **7.3. Impact on residential amenities**

- 7.3.1. I am generally satisfied that the proposed development, including the proposed first floor extension and the recommended amendment (by condition) of fenestration to the rear of the proposed development, would not unduly impact on the amenities of residential property in the vicinity subject to the attachment of a condition requiring the arrangement and location of 1.8m high opaque screens to the roof terrace and terrace access be agreed with the planning authority.

### **7.4. Contributions**

- 7.4.1. The proposal entails a change in use from commercial office to student accommodation of c.218-sq.m plus a c.24-sq.m extension including enclosure of existing external yard (c.12-sq.m) to storage associated with the proposed student accommodation and a first-floor extension (c.12-sq.m) for student accommodation floor space.
- 7.4.2. TII indicate that the s.49 development levy scheme applies in this location in respect of Luas Cross City. The scheme states that student accommodation is not exempt, but a reduction of 50% is allowed for change of use from commercial to residential and vice versa, net any s.49 contributions that may have been previously paid in respect of the existing development. This is similarly so under the s.48 DCS.

### **7.5. Environmental Impact Assessment Screening**

- 7.5.1. The proposed development is development of a class under Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, namely Class 10. Infrastructure projects, (b)(iv) Urban Development. However, it is significantly subthreshold the 2ha limit provided under that part and EIA is not required.

### **7.6. Appropriate Assessment**

- 7.6.1. Having regard to the small-scale nature of the development proposed within an existing built-up area, it is not considered that the proposed development would be likely to have a significant effect, directly or indirectly, individually or in combination

with other plans or projects on any European site. I consider no Appropriate Assessment issues to arise.

## 8.0 Recommendation

I recommend that permission be **GRANTED** for the reasons and considerations set out under section 9.0 and the subject to the conditions set out under section 10.0.

## 9.0 Reasons and Considerations

It is considered that the proposed development would be consistent with the provisions of the Dublin City Development Plan 2016-2022, section 5.5.12 *Student Accommodation*, section 6.5.5 *Employment, Enterprise and Economic Development Sectors* and section 16.10.7 *Guidelines for Student Accommodation* and with the zoning objective pertaining to the site, Z1 *'To protect, provide for an improve residential amenities'*, and would be in accordance with the proper planning and sustainable development of the area, subject to compliance with the conditions set out in section 10.0.

## 10.0 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. Prior to the commencement of development, the applicant shall submit for the written agreement of the planning authority a revised plans and drawing showing the following amendments:

(i) the second-floor unit shall be reduced to three-bedspace bedrooms of

regular size and reasonable dimensions, served by at least 1 no. bathroom facility of adequate size to cater for three students;

(ii) a window of standard cill height shall be provided to the common room southern elevation.

Reason: In the interest of providing for an adequate level of residential amenities on site in accordance with Development Plan standards.

3. The details of the screening structure to be erected to the roof terrace area, including location, extent, height and materials, shall be agreed with the planning authority and installed prior to first occupation of the student accommodation units.

Reason: To protect the amenity of residential property in the vicinity and protect the visual amenities of the area.

4. The proposed development shall be used only as student accommodation, or accommodation related to a Higher Education Institute, during the academic year, and as student accommodation, or accommodation related to a Higher Education Institute or tourist/visitor accommodation only during academic holiday periods. The development shall not be used for the purposes of permanent residential accommodation, as a hotel, hostel, apart-hotel or similar use without a prior grant of permission.

Reason: In the interests of the proper planning and sustainable development of the area

5. (a) Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works.

(b) Water supply and wastewater arrangements shall comply with the requirements of Irish Water.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

6. (a) The site and building works required to implement the development shall only be carried out between the hours of: Mondays to Fridays -



7.00a.m. to 6.00p.m. Saturday - 8.00a.m. to 2.00p.m. Sundays and Public Holidays - No activity on site.

(b) Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from Dublin City Council. Such approval may be given subject to conditions pertaining to the particular circumstances being set by Dublin City Council.

Reason: In order to safeguard the amenities of adjoining residential occupiers.

7. The developer shall comply with the requirements set out in the Codes of Practice from the Drainage Division, the Roads Streets and Traffic Department and the Noise and Air Pollution Section.

Reason: To ensure a satisfactory standard of development.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

9. The developer shall pay to the planning authority a financial contribution in respect of LUAS Cross City St Stephen's Green to Broombridge in

accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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John Desmond  
Senior Planning Inspector

25<sup>th</sup> October 2018