



An
Bord
Pleanála

Inspector's Report ABP-302083-18

Development	Change of use from previously unauthorised hostel use to a five bedroom residential unit at first and second floor 109 South Circular Road and at second floor 67 Clanbrassil Street.
Location	109, South Circular Road, and 67 Clanbrassil Street Upper, Dublin 8
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2824/18
Applicant(s)	Eric Feldman
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Eric Feldman
Observer(s)	None.
Date of Site Inspection	17 th October 2018
Inspector	Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is located close to the south eastern corner of Leonard's Corner at first and second floor levels over the existing commercial units of a 3 storey building. The property has frontage at first and second floor levels onto South Circular Road and at second floor level onto Clanbrassil Street Upper. Access to the property is from a doorway in the eastern side elevation at upper ground floor level from an external entrances staircase and front driveway area currently shared with the neighbouring house at 107 South Circular Road, which is a Protected Structure.
- 1.2. My observations on site was that the property was in some form of communal residential use, with a number of shared bedroom spaces, a living area, a kitchen dining area and a number of WC and shower rooms.

2.0 Proposed Development

- 2.1. Change of use from previously unauthorised hostel use to a five bedroom residential unit at first and second floor 109 South Circular Road and at second floor 67 Clanbrassil Street.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Refuse permission for one reason as follows:

The proposed development by reasons of its design approach, form, layout and residential accommodation standards would materially and negatively impact on the residential amenity of the proposed unit. Therefore, it would be contrary to the standards set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, March 2018. The proposed development would therefore contravene the objectives of the Development Plan and 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 planning officer reflects the decision of the planning authority.

Points of note are as follows:

- Principle of residential accommodation is acceptable.
- Residential is the most ideal use for the site.
- Significant concern that the lack of any attempt to try and alter or improve the residential accommodation from its current substandard quality would not in fact provide a single family unit but continue the unauthorised use as a hostel.
- Proposal is poor quality residential accommodation.
- Recommendation was to refuse permission.

3.2.2. Other Technical Reports

Drainage – No objection subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. One no observation was received. The issues raised are also raised in the observations on the appeal and are set out in the relevant section below.

4.0 **Planning History**

3231/16 – Refuse- Retention permission for the change of use from office to hostel use. For one reason as follows:

The site of the hostel use proposed for retention is zoned 'Z3' in the Dublin City Development Plan 2011-2017. The stated objective of this zoning is 'To provide for and improve neighbourhood facilities'. Hostels are not normally permitted within this zoning. Furthermore, it is considered that due to the proximity of the hostel entrance to neighbouring residential properties, the hostel use proposed for retention would

give rise to increased noise and general disturbance at residential properties in the vicinity. The development proposed for retention would, therefore, seriously injure the residential amenities of the area and of property in the vicinity, would be contrary to the neighbourhood centre zoning objective for the area as set out in the Dublin City Development Plan 2011-2017, and would be contrary to the proper planning and sustainable development of the area.

1609/05 – Grant – removal of the existing shop front and signage/reinstate window opes/new shopfront/signage.

Enforcement

E0688/15 – Enforcement file opened 8th September 2015 – intensification of residential use.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

The site is zoned Z3 'To provide for and improve neighbourhood facilities'.

Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Section 16.10.1 Residential Quality Standards – Apartments.

The following Section 29 Ministerial Guidelines are of relevance.

Sustainable Urban Housing: Design Standards for New Apartments (March 2018)

5.2. Natural Heritage Designations

5.2.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

The First Party Grounds of Appeal are as follows:

- Applicant has undertaken considerable refurbishment of the property.
- Prior to purchase it had been rented as small tenant office spaces.
- Was subsequently used as a hostel.
- Retention application was refused,
- Preplanning suggested proposal was acceptable.
- Not clear what measures in the Development Plan have not been complied with.
- Complies with Section 16.10 of the Development Plan save for storage and facilities for children.
- Complies with guidelines save for storage space.
- Applicant is happy to comply with the standards for storage and provide facilities for children.
- Need for diversity in the type of accommodation provided
- The prescriptive approach taken is incorrect.
- Client is willing to modify the property as the Board requires.
- Wishes to rectify the planning status of the property.

6.2. **Observations**

6.2.1. An observation on the appeal has been received from the owners of 107 South Circular Road. The issues raised are as follows:

- Appeal should have been invalid as the applicant's address is not provided.
- 109 South Circular Road, a portion of 67 Clanbrassil Street and part of the entire block is in fact owned by 3 people as evidenced in the land registry records.
- This was not demonstrated with the required red/blue line.
- One cannot change the use of an unauthorised hostel development to another use.
- Property is listed with the Planning Authority as a residential house – why would you want to get planning permission for what the property already is.

- If granted permission property may be used as a hostel type operation without the proper planning, fire or building controls.
- Have submitted copy of observation made to DCC/Attached correspondence from Enforcement Section.
- Very considerable comings and goings/intensive use.
- Applicant's architect has confirmed its continuing use as a hostel.
- No legal right to access the part of the property at No. 67 Clanbrassil Street
- No planning permission to extend into No. 67 Clanbassil Street.
- No cycle parking is provided – will not be allowed on yard/forecourt area for 107 South Circular Road/only pedestrian access allowed/right of way cannot be intensified with legal agreement.
- Lack of maintenance of the building/no regard to the area, neighbours or environment.
- Residents do not have refuse bins/utilising neighbours bins.
- Noise nuisance from residents/parking on front yard area.
- Cannot sell property due to the hostel use.
- Disregard for regulations and welfare of tenants.
- Should permission be granted a condition should be imposed that it is only used as a private residence.
- Should exclude 67 Clanbrassil Street.
- 8 no. attachments are included with the observation.

7.0 **Assessment**

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my de novo consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of Development/Nature of Application/Loss of Office
- Residential Amenity/Residential Standards

- Other Issues
- Appropriate Assessment
- Environmental Impact Assessment

7.2. Principle of Development/Nature of Application/Loss of Office

- 7.2.1. The appeal site is zoned Z3 'To provide for and improve neighbourhood facilities'. Residential use is a permissible use within this zoning. As such the proposal for a residential unit is acceptable in principle.
- 7.2.2. In relation to the nature of the application, the development description refers to a change of use from an unauthorised hostel use. This hostel use does not have the benefit of planning permission so one cannot change from this use. From the evidence on file, and having regard to the planning history, it would appear that the unit was previously used lawfully as office units. As such the application pertains to a change of use from office use to residential, and the 'fallback' position is an office use.
- 7.2.3. In relation to the loss of office floorspace, there is no policy protection *per se* for the loss of office floorspace, save for general policies and objectives to promote employment uses. However, having regard to the nature of the surrounding area, the zoning objectives for the site where both office (up to 300 sq, m) and residential are permissible uses, a residential unit is considered appropriate and there is no objection in principle to the loss of office floorspace.

7.3. Residential Standards/Residential Amenity

- 7.3.1. The existing and proposed plans detail the same layout of accommodation. From my observations on site, the existing plans do not tally with the actual room layouts/uses. The area marked as 210 Bedroom on the second floor level is in use as a living room. The area marked as 103 Living Room on the first floor is in use as a shared bedroom, as is the room labelled 104 on the first floor.
- 7.3.2. In terms of residential standards, I can only assume that the proposed plans are what will be put in place should permission be granted and I am assessing the application on this basis. The proposed bedroom area on the second floor (Room 210) is served only by a small high level window, which in turn looks out to an enclosed courtyard. It is unlikely that this room would achieve sufficient daylight

standards, as outlined in the BRE Guidelines (Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice, 2011). No internal daylight assessment has been submitted with the application.

- 7.3.3. The Development Plan notes that, where balconies or terraces are provided, they should be functional, have a sunny aspect, and allow all occupants to sit outside, including wheelchair users. The external space is of very poor quality and is unsuitable as a sitting out area and does not meet the requirements as set out in the Development Plan. It does not provide a sunny aspect as it is a courtyard that is enclosed on all four sides. Furthermore there is an existing flue duct that would likely result in odour and noise issues. The external space is also accessed off a bedroom area, which for an area that is intended to serve the unit as a whole, is not acceptable.
- 7.3.4. There is no internal storage space provided. There is no area designated for refuse storage, and there is no area designated for cycle storage. A total of 5 cycle spaces would be required in this instance. There does not appear to be any suitable area available for such facilities.
- 7.3.5. No adequate bathroom facilities are provided i.e. there no bathing facilities, although there are four WCs in total.
- 7.3.6. Overall the standard of accommodation provided falls short of that required, and as outlined 'Sustainable Urban Housing: Design Standards for New Apartments (March 2018)', and as outlined in Section 16.10.1 'Residential Quality Standards – Apartments' of the Development Plan.
- 7.3.7. **Residential Amenity**
- 7.3.8. I do not consider that residential unit, in and of itself, would have an impact on surrounding residential amenity. However the lack of adequate refuse storage facilities would likely result in the front area of No. 107 being used for refuse storage, leading to a loss of amenity for this residential unit.

7.3.9. **Other Issues**

- 7.3.10. Lack of compliance with building regulations and fire regulations has been raised as an issue by the observer on the appeal. However such issues are not a matter for planning and are dealt with by other legislative codes.
- 7.3.11. In relation to the issue of an alleged ongoing unauthorised use, and the alleged unauthorised integration of two properties (109 South Circular Road and 67 Clanbrassil Street), it is of note that the Board does not have a role in Enforcement and in this respect regard is had to Section 10.1 of the Development Management Guidelines 2007 which provides that enforcement of planning control is the responsibility of the planning authority.
- 7.3.12. In relation to the validity of the appeal, and specifically the applicant's address not being provided, the appeal cover letter provides the address of the appeal site and also provides the agent's name and address. The applicant's name is provided but no address is provided and this may be different from the appeal site address. The Board may wish to pursue this issue further.
- 7.3.13. I also note the Board does not have remit in relation to land ownership or rights of way issues and I do not wish to comment on the ownership or right of way issues raised by the observer on the appeal.

8.0 **Recommendation**

- 8.1. Refuse permission.

9.0 **Reasons and Considerations**

Having regard to the lack of internal storage space, the lack of adequate bathroom facilities, the poor standard of private open space provided, the lack of cycle parking and refuse storage facilities, and having regard to the poor levels of internal daylighting to one of the proposed bedrooms at second floor level, it is considered that the proposed development would result in sub-standard accommodation for future occupiers of the unit and is contrary to the standards set out in 'Sustainable

Urban Housing: Design Standards for New Apartments (March 2018)' and is contrary to the standards set out in Section 16.10.1 'Residential Quality Standards – Apartments' of the Dublin City Development Plan 2016-2022. Furthermore, having regard to the lack of a suitable area to provide adequate refuse storage facilities, the proposed development would likely lead to a loss of residential amenity for the adjoining residential occupier at No. 107 South Circular Road, as it is likely that refuse bins would need to be located on the driveway of this property. The proposal, therefore, would be contrary to the proper planning and sustainable development of the area.

Rónán O'Connor
Planning Inspector

19th October 2018