



An
Bord
Pleanála

Inspector's Report ABP-302809-18

Development

Development of a protected structure, located in an Architectural Conservation Area, comprising the conservation, repair and adaptation of the lower ground floor, to facilitate a change of use from residential occupancy to use as Short Term Lease studio apartments

Location

3, Henrietta Street, Dublin 1

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3628/18

Applicant(s)

Patrick Wigglesworth and Ian Lumley

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Patrick Wigglesworth and Ian Lumley

Observer(s)

Transport Infrastructure Ireland

Date of Site Inspection

20th February 2019

Inspector

Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located at 3 Henrietta Street in Dublin City Centre, on the northern side of Henrietta Street.
- 1.2. The site, which has a stated area of 918.98sqm, comprises an existing four-storey over lower ground floor, four-bay, end-of-terrace, protected structure. The existing building is 968.12sqm and is currently unoccupied. The building is currently undergoing renovations (largely complete internally) following on from a previous permission to convert it into apartments for short term residential lease. Part of the rear garden is excluded from the site, but is shown as being in the ownership of the applicant. The site is bounded to the east by Henrietta Lane, which backs onto Bolton Street on the opposite side. Henrietta Lane extends along the side and rear of the property, north of which are the rear of buildings which front onto Dominick Street Upper.

2.0 Proposed Development

- 2.1. The proposed development is for works to the lower ground level of the existing house to comprise the following:
 - Conservation, repair and adaptation of the lower ground floor, to facilitate a change of use from residential occupancy to use as Short Term Lease studio apartments, consisting of a one bed apartment and two studio apartments, laundry service area and two storage rooms.

3.0 Planning Authority Decision

3.1. Decision

Permission REFUSED for the following reasons:

R1: Having regard to location of the site on Henrietta Street, which is a conservation area and a street of international importance in conservation terms, it is considered that the proposed intensification of use to accommodate two small studio units in addition to a one-bedroomed apartment at lower ground floor level would result in a loss of original fabric,

especially in terms of the remaining elements of the historic floor plan of the basement, resulting in serious injury to the special architectural character and fabric of this protected structure of international significance. The proposed development would also set an undesirable precedent for similar developments along the street. The proposed development would therefore be contrary to the provisions of the Dublin City Development Plan 2016-2022 in respect of protected structures and development in conservation areas, and to the proper planning and sustainable development of the area.

R2: Having regard to the minimal floor of the proposed residential units and the lack of any additional private open space, the proposal would result in an over-intensive use which would detract from the character and residential amenities of the existing building and the permitted short stay residential units, thus being contrary to the zoning objective Z8 – ‘to protect the existing architectural and civic design character and to allow only for limited expansion consistent with the conservation objective’ and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer’s report generally reflects the decision of the Planning Authority.

3.2.2. Other Technical Reports

Conservation Report: Refusal recommended. Provision of 3 apartments in the basement is overdevelopment from a conservation point of view, with requirement for services and breaking through of original structural walls resulting in a loss of fabric due to intensification and greater wear and tear from increased turnover of occupants, given the short term leases use. The proposal would have a significant and long term negative impact on Henrietta Street and the wider context along Henrietta Street. Furthermore the drawings are inadequate in conservation terms in that they do not show the proposed conservation and construction works to the basement floor or a fire services strategy with its resultant impact on the fabric of the protected structure.

Archaeology: No objection subject to condition. Note that site is listed in the Record of Monuments and Places (DU018-020534 – House), and is also within the zone of archaeological potential for the recorded monument DU018-020 (Dublin City), both of which are subject to statutory protection under Section 12 of the National Monuments (Amendment) Act 1994. The site is also within a zone of archaeological interest, as identified in the current Dublin City Development Plan.

Drainage Division: No objection.

3.3. Prescribed Bodies

Transport Infrastructure Ireland: Site is within area of Section Luas cross city supplementary development contribution scheme; unless exempt, recommendation that levy condition be applied; note TII code of engineering practice for works on, near or adjacent the Luas system.

3.4. Third Party Observations

One third party submission was received raising concerns in relation to overdevelopment; non-compliance with the conservation plan for Henrietta Street to retain or enhance the character and use of No. 3; non-compliance with development plan policies or objectives in relation to heritage; No. 3 is the largest and possibly most important house on Henrietta Street and its future development and commercial use are of concern.

4.0 Planning History

Reg. Ref. 4322/17 - Permission GRANTED for works to the existing house, a protected structure in a conservation area, to comprise the conservation, repair and adaptation to facilitate a change of use from multiple residential occupancy to short term lease apartments:

- Seven Apartments:
 - Lower Ground Floor Level: two-bedroomed apartment, a laundry, building services area and storage.
 - Ground Level: one no. two-bedroomed apartment

- First Floor Level: one no. two bedroomed apartment
- Second Floor Level: two no. two-bedroomed apartments
- Third Floor Level: two no. two-bedroomed apartments
- Retention of structural works carried out to stabilise the building fabric
- Alterations to rear facade and area at basement and ground floors including new stairs to facilitate access from garden, to reinstate original window at ground level and to reinstate railed enclosure to area from garden
- New pedestrian access and entrance gate in the rear side boundary wall accessed from Henrietta Lane to facilitate servicing of the building
- Formation of new door openings internally at basement, ground, first, second and third floor levels to facilitate fire safety and general internal circulation
- Installation of building services required to service the proposed new uses
- Landscaping works to rear garden.

5.0 Policy Context

5.1. National Policy

Guidelines for Planning Authorities on Architectural Heritage Protection published by the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs (2011).

5.2. Dublin City Development Plan 2016-2022

- 5.2.1. The site is zoned Z8, 'Georgian Conservation Area', the objective of which is 'to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective'. Hotel is a permissible use.
- 5.2.2. The following policies are of note:
- Policy CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

- Policy CHC2: To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:

(a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest

(b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances

(c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials

(d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure

(e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works

(f) Have regard to ecological considerations for example, protection of species such as bats.

Changes of use of protected structures, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted.

- Policy CEE12 (i): To promote and facilitate tourism ... and to support the provision of necessary significant increase in facilities such as hotels, apart hotels...
- Policy CEE13 (iii): To promote and support the development of additional tourism accommodation at appropriate locations throughout the City.

5.2.3. Section 11.1.5.3: Protected Structures – Policy Application.

5.3. Natural Heritage Designations

The site is not located within or adjacent to a Natura 2000 site.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal as submitted by the applicant is summarised as follows:

Reason 1:

- The proposed residential use will have some impact on the wider street however occupancy management is likely to involve minimal physical impact as group numbers will be limited and given proximity to high quality public transport, no negative impact from parking is anticipated.
- The works proposed, which are all reversible, will have minimal impact upon the historic fabric and will allow for the ongoing use and survival of the building. The impact of the proposed works has been assessed against the Architectural Heritage Protection Guidelines.
- The Irish planning system is not precedent based. The proposed works are specific to this building, do not represent a material contravention of the development plan, require no new zoning and are in keeping with the development plan criteria.

Reason 2:

- The proposed alterations do not represent an intensification of existing use, which was addressed in the submitted Architectural Heritage Impact Assessment.
- The proposal represents a considerable reduction in terms of the intensity of use from the previous multiple occupancy use which until the late twentieth century was as high as 60 persons.
- In relation to open space, given these are short term use apartments, the amenity space standards applied to normal apartments is not relevant.

- The rear garden area is approx. 700sqm, which on basis of 30 bed spaces is approx. 23sqm per person, which is considered generous in context of an inner city protected structure.
- New interventions are modest in scale and number and are developed from an informed understanding of the existing architecture and construction. The historic plan form and architectural detail remains clearly legible and dominant. New interventions have clarity and quality of craftsmanship, are easily reversible and will not cause decay or damage to the historic fabric.
- The added variation in size of short term let units would allow for the historic structure to be enjoyed by a larger variety of guests and the increase of visitor numbers from 2 to 6 is insignificant.

6.2. Planning Authority Response

None.

6.3. Observations

Transport Infrastructure Ireland: Site is within area of Section Luas cross city supplementary development contribution scheme; unless exempt, recommendation that levy condition be applied; note TII code of engineering practice for works on, near or adjacent the Luas system.

6.4. Further Responses

None.

7.0 Assessment

- 7.1.1. The proposed development is to convert the lower ground floor/basement level from residential occupancy to use as short term lease apartments, comprising of a one bed apartment and two studio apartments, laundry services area and storage. I note that permission was granted in May 2018 for change of use of the entire building to short term lease apartments, with this lower ground floor level permitted to change to

a two-bedroomed apartment, with the basement also comprising a separate laundry room, caretaker and bag store room, and under-stair bathroom.

7.1.2. The following assessment sets out my considerations of the key planning issues. The primary issues for assessment include:

- Policy
- Impact of Use on the Protected Structure
- Appropriate Assessment

7.2. Policy

7.2.1. The subject site is located within zoning objective Z8, 'Georgian Conservation Area', the objective for which is 'to protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective'. The aim of the Z8 zoning is to protect the architectural character/design and overall setting of these areas and to maintain and enhance them as active residential streets and squares during the day and at night. A range of uses is permitted within the areas, including residential, hotel, and bed and breakfast use, while guesthouse use is open for consideration.

7.2.2. The Conservation Plan for Henrietta Street states under Policy 26 'that the precarious condition of Nos. 3 and 14 be tackled as a priority, that the buildings be repaired in accordance with the conservation issues report included in Appendix F and that a sustainable new use and tenure be secured'. Alternative uses suggested for the house in the plan are leasing to an appropriate institutional use, entering into partnership to run the house as short term holiday accommodation, with the proper conservation of the architectural character and fabric of the house to be a priority, use as a guesthouse or use as a local authority building.

7.2.3. I consider the principle of the development, which has been previously permitted and assessed relative to aparthotel standards, to be acceptable.

7.3. Impact of Use on the Protected Structure

7.3.1. Permission was granted by Dublin City Council (reg ref 4322/17) for seven apartments for short term lease use in this building. The lower ground floor to first

floor were permitted one apartment per floor and the upper two floors were permitted two apartments per floor. This appeal application proposes three apartments at the lower ground floor level, in place of one two-bed apartment. The permitted 'care takers and bag store room' is also replaced. I note, in the interests of clarity, the applicant has submitted a layout of the 'lower basement as granted per previous planning No. 4322/17', however this layout is not the same as that permitted as this drawing was amended by way of further information with the partitions within the bow shaped room omitted on the further information plan and a shower room added under the stairs in place of a storage room.

- 7.3.2. With regard to the bow-shaped room, proposed studio 2, the layout now proposed in this application does not subdivide this room, which is the same as per the previous permission which permitted one use (caretaker and bag store) with no partition. The shower room proposed to serve studio 2 is in the same location as a previously permitted public bathroom off the hallway with this space subdivided to facilitate a smaller public bathroom and this en-suite for studio 2. The difference in the layout proposed here is the provision of an opening in the original fabric to gain access to the proposed en-suite. I note upon site inspection that a subdivision has been created in this room with a kitchenette inserted. With regard to proposed studio/apartment 1 and 3, the main changes to the previously permitted interventions, are the addition of a lobby and a bathroom in the principle room for 'studio 1'; blocking of an original doorway; and the addition of a kitchenette in the proposed kitchen which replaces a permitted bedroom in studio 3.
- 7.3.3. The proposed short-term lease apartment units were previously assessed against the standards for an aparthotel and not as permanent residential units. I consider this approach appropriate for this application also given the short term lease use. As per permission 4322/17, the units are not proposed as standard long-term apartments, nor would they be appropriate for such use given their scale and amenity provision. I therefore consider the application of national guidance for apartments in terms of the requirement of additional private amenity space and in terms of the scale of the individual units to be irrelevant and in this regard, I do not concur with refusal reason 2 of the planning authority.
- 7.3.4. The applicant contends that the works proposed are all reversible, will have minimal impact upon the historic fabric and will allow for the ongoing use and survival of the

building, with the historic plan form and architectural detail remaining clearly legible and dominant. It is considered the added variation in size of the short term let units will allow for the historic structure to be enjoyed by a larger variety of guests, while the increase of visitor numbers from 2 to 6 is insignificant in terms of management of the impact on the character of the wider area. It is also stated that the issue of intensification of existing use was addressed in the submitted Architectural Heritage Impact Assessment.

- 7.3.5. The DCC conservation officer's report states that the proposal for three apartments at basement level is over-development from a conservation view and that the services required to support three studio units are far in excess of what has already been considered acceptable under the previous planning application (4322/17). The requirement to break through original structural walls to provide an en-suite room results in the loss of historic fabric and the subdivision of principle rooms to accommodate lobbies and en-suites results in the compromise of the reading of the historic floor plan of principle rooms. Furthermore the conservation officer states the intensification of use that comes with short-term letting can have a detrimental impact on the historic fabric in terms of intensification of services provision within the structure and in terms of general wear and tear at the property, which will naturally be more than with long term residential use. The conservation officer notes that a fire services strategy has not been submitted with the application and this may have a further effect on the historic floor plan and on the fabric of the protected structure that has not been identified on the drawings. Detailed drawings in relation to the location of service risers, drainage, water supply and ventilation route to kitchen areas and internal bathrooms have not been identified. The conservation officer's report further notes that the information submitted in conservation terms is inadequate to describe the works at this important historic and architecturally significant structure, specifically in relation to the floor of the basement, and an accurate and up-to-date inventory of the works undertaken has not been submitted as part of this application.
- 7.3.6. From the drawings submitted, as I have noted above, the three proposed units would occupy original rooms, with the intensification proposed in this application resulting in two new internal partitions in the case of studio 1 to create a lobby and a bathroom as well as the blocking of one doorway. The kitchenette in this room has permission. As stated by the applicant, the insertion of partitions is reversible and in my view it

does not affect the integrity of the structure, given the location at basement level which does not have the same volume, scale and decorative detailing as the rooms on the other levels.

- 7.3.7. The rear bow-shaped room would be retained intact with a new door created in the original wall in the corner of the room to gain access to a proposed en-suite bathroom under the stairs, with the creation of this doorway resulting in a loss of a portion of the original fabric. However, in my view, the location of the new opening would not detract overall from the character and proportions of this room and will not result in a significant loss of fabric at basement level. The existing kitchenette and partition in this room, which I noted upon site inspection, were not indicated on the permitted drawings. I consider the existing partition detracts from the overall character and form of this room, which of all the basement rooms is the most striking in its form. If the Board is minded to grant permission, a condition would be required to ensure the room comprises no internal partition walls, as indicated and proposed on the drawings submitted with this application.
- 7.3.8. I note no detail has been submitted in relation to the location of proposed services for the units and no assessment in terms of works required to comply with building regulation/fire services has been submitted. I note under the previous application, following a further information request, the drawings were amended to show details in relating to ducting/services and information in relation to works to the basement floor were agreed. In relation to fire services issues, the type of fire sprinkler system to be used was agreed. The details in the drawings of the previous permission are missing in this application. Each application should be assessed on its own merits and I acknowledge the applicant appears to rely on information previously submitted and agreed by way of the last permission in May 2018 for this application and has not updated the information to include the additional bathrooms and kitchenette.
- 7.3.9. However, from a review of the previously permitted lower ground floor plan, one can see where the permitted services are located, and given the alignment of the services pipe, the existing constructed services to the permitted unit could be utilised to serve the proposed bathroom for studio 1 and also the proposed kitchenette in studio 3, given they are located along the alignment of the services duct. I also note works to the floor were previously permitted and additional works to extend the wastewater requirements would be in the area of the existing permitted bathrooms.

With regard to the additional en-suite to studio 2, I note a duct for the permitted bathroom exists at this location and this could potentially be utilised for the additional bathroom. While it appears to be possible to provide a limited extension to the existing services network without undue negative impact on the overall integrity and fabric of the structure, the lack of information submitted in relation to services and a fire strategy cannot in my view be overlooked or addressed by way of condition given the protected structure status of this building and permission should therefore in my view be refused. Should the Board be minded to grant permission, they may wish to seek additional drawings to clarify the extent of works proposed to the building to accommodate services and structural works required to comply with building regulations and therefore ensure all conservation and construction works proposed to the protected structure are clearly indicated and considered.

7.3.10. With regard to the conservation officer's concerns in relation to the wear and tear which comes from allowing additional units and therefore persons accessing the building on a short term basis, I do not agree that the addition of this limited number of bedspaces to the basement level only will overall detract from the character of the building or the amenity of future occupants.

7.3.11. I am of the view that the proposal for two additional apartments at the lower ground floor level would be not be an over-intensification of use of this protected structure and could be achieved while maintaining the overall character and fabric of the structure in the interests of its long-term conservation. However due to a lack of detail submitted with the application, as discussed above, I am not satisfied that the proposed development will not have an adverse impact on the integrity and character of this protected structure.

7.4. Appropriate Assessment

7.4.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity 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 a European site.

8.0 Recommendation

- 8.1. It is recommended that the decision of the planning authority should be upheld and permission refused for the reasons set out hereunder.

9.0 Reasons and Considerations

Having regard to the protected structure status of this building and the lack of information submitted in relation to drainage, plumbing and ventilation services and structural upgrade works to provide bathroom and kitchen accommodation as well as implications of a fire services strategy, the Board is not satisfied that the proposed development would not adversely impact on the fabric and character of the protected structure, and the proposed development would therefore be contrary to zoning objective Z8 and policy CHC2 of Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

Una O'Neill
Senior Planning Inspector

20th February 2019