



An
Bord
Pleanála

Inspector's Report ABP-305120-19

Development	Change of use of first, second and third floors from offices to nine apartments for short-term letting
Location	60/61 Middle Abbey Street, Dublin 1
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3064/19
Applicant(s)	Collen Assets Trading Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First-Party
Appellant(s)	Collen Assets Trading Ltd.
Observer(s)	Transport Infrastructure Ireland
Date of Site Inspection	16 th October 2019
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1.** The appeal site has a stated area of approximately 441sq.m and is located on the north side of Dublin city centre, fronting onto Middle Abbey Street and backing onto North Lotts. The site features two red-brick terraced buildings that are both four storeys in height over a basement and with single-storey rear projections extending onto North Lotts. The ground and basement floors of the buildings onto Middle Abbey Street have been amalgamated and the premises are currently vacant. It is understood to have been most recently used as a printer's shop known as J.J Lalor Ltd. Printers. Access to the upper-floor office space is available by two entrance doors off Middle Abbey Street. No.60 on the west side is the older of the two buildings on site and is included in the National Inventory of Architectural Heritage (NIAH) (Ref. 50010389), where it is described as dating from c.1850 and features a granite shopfront inserted to the ground floor in 1947. No.61 is also included in the NIAH (Ref. 50010389), where it is described as dating from 1945, having replaced a house that was destroyed on the site during the Easter 1916 rising.
- 1.2.** The southern side of Middle Abbey Street is dominated by four-storey buildings with commercial uses at ground floor and comprising a range of upper-floor uses, including residential, commercial, retail and entertainment uses. The rear of the site onto the cobble-paved North Lotts is dominated by service entrances to the commercial uses along Middle Abbey Street and mews-style residential properties backing onto Bachelors' Walk. Red-line Luas services run along Middle Abbey Street fronting the site and ground levels in the area are relatively flat.

2.0 Proposed Development

- 2.1.** The proposed development comprises the following:
- change of use of first, second and third floors from offices to nine apartments for short-term letting, including two studio apartments, four one-bedroom apartments and three two-bedroom apartments;
 - revised internal layout and alterations to the elevations onto Middle Abbey Street and North Lotts, comprising replacement windows.

- 2.2.** In addition to the standard details, the planning application was accompanied by a report setting out the rationale for the proposed development.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to refuse permission for the following reason only:

- The development by itself and by the precedent for which a grant of permission would set, would be contrary to the stated provisions of the Core Strategy of the City Development Plan 2016-2022, which recognises residential units as a scarce resource and which need to be managed in a sustainable manner, so that the housing needs of the city are met. The development, resulting in the potential permanent loss of residential, would also be contrary to the core principles of the Dublin Housing Strategy 2016-2022, which requires that the planning and building of housing and residential space in the city contributes to sustainable and balanced development. The subject site is located within an area that can avail of the Living City Initiative and within a rent pressure zone. 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 Report

The report of the Planning Officer (July 2019) reflects the decision of the Planning Authority and noted the following:

- justification for not providing long-term residential accommodation on site has not been provided by the applicant;
- despite the need to balance competing demands in the city centre, the proposed development would result in the potential loss of long-term residential stock;
- the site is within the area covered by the Living City Initiative, a scheme intended to incentivise residential accommodation in the historic inner-city

area and the proposed development would undermine the progress made in this scheme and set precedent for similar development;

- the site is located in a rent-pressure zone, where there is high demand for long-term residential accommodation;
- the proposed development is contrary to the Core Strategy of the Dublin City Development Plan 2016-2022, which recognises that serviced residential lands are a scarce resource that need to be sustainably managed.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) - no objection subject to conditions.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland (TII) – recommends conditions should be attached relating to Section 49 contributions and construction management;
- National Transport Authority (NTA) – no response;
- Irish Water – no response.

3.4. Third-Party Submission

3.4.1. One submission was received during consideration of the application by the planning authority, on behalf of Tour America, the occupants of the travel agents' premises adjoining the appeal site to the east. The issues raised in this submission can be summarised as follows:

- concerns regarding the structural impacts of the proposed development on the adjoining premises;
- concerns regarding the noise and other disruptive impacts to ongoing adjoining business operations that may arise during the construction phase.

4.0 Planning History

4.1. Appeal Site

4.1.1. The following planning application relates to the appeal site:

- ABP Ref. PL29N.245869 / Dublin City Council (DCC) Ref. 2755/15 – permission granted (April 2016) for partial demolition works and the construction of a four to six-storey building over basement, comprising retail uses at basement and ground-floor levels, retail or office use at first-floor level and offices on the upper floors. Condition 2 of the permission omitted the top fifth-floor level.

4.2. Surrounding Sites

4.2.1. There are numerous recent planning applications associated with the adjoining and neighbouring sites, none of which appear particularly relevant to the consideration of the subject appeal. The following recent appeal decided by An Bord Pleanála relates to a similar type of development proposal and in a similar context, approximately 400m to the southwest of the appeal site:

- 25 Eustace Street, Temple Bar, Dublin 2 (ABP Ref. 304424-19 / DCC Ref. 2312/19) – retention permission granted in September 2019 for a change of use from offices to short-term residential letting and permission for development works to the Protected Structure on site.

5.0 Policy & Context

5.1. Development Plan

- 5.1.1. The appeal site has a zoning objective 'Z5 – City Centre' within the Dublin City Development Plan 2016-2022, where it is the stated objective 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design, character and dignity'.
- 5.1.2. An architectural conservation area (ACA) is designated for O'Connell Street and its environs, approximately 90m to the east of the site. The adjoining Georgian-style house to the west, No.59, which is occupied by a restaurant fronting onto Middle Abbey Street, is included in the record of protected structures (RPS Ref. 14).
- 5.1.3. Section 6.5.3 of the Plan refers to 'tourism and visitors', and notes that it is important to continue to develop tourism infrastructure, such as visitor accommodation of various types. Relevant policies include:

- CEE12 (i) - to promote and facilitate tourism, as one of the key economic pillars of the city's economy and a major generator of employment, and to support the provision of necessary significant increase in facilities such as hotels;
- CEE13 (iii) - to promote and support the development of additional tourism accommodation at appropriate locations.

5.1.4. Other relevant policies of the Development Plan include:

- SC30 - promote residential use on upper floors and the Living City Initiative;
- QH24 - resist the loss of residential use on upper floors and support and promote the Living City Initiative;
- QH25 - encourage the re-introduction of residential use into historic areas.

5.2. National Guidelines

5.2.1. The following national guidelines are also relevant:

- Circular Letter PL10/2017 - Guidance on Planning Applications for Short Term Lettings;
- Circular Letter PL 4/2019 – New Regulations of Short-term Letting;
- Architectural Heritage Protection Guidelines for Planning Authorities (2011).

5.3. Environmental Impact Assessment - Preliminary Examination

5.3.1. Having regard to the existing development on site, the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The principal grounds of the first-party appeal can be summarised as follows:

- the site does not currently form part of the residential stock within the inner city, therefore, housing would not be lost as a result of the proposed development;
- the proposed development would comply with the zoning objectives for the site and the use would be wholly appropriate to the inner-urban context;
- short-term letting is commercially viable and vital to the growing tourism industry in the city centre, and the planning authority recognise the need for increased tourist accommodation in the city centre;
- Circular Letter PL 4/2019 refers to properties currently being used for short-term letting and this circular does not provide justification for the refusal of planning permission for the proposed change of use development;
- the applicant should not have to provide justification for discounting other possible uses in favour of short-term letting;
- the positive benefits of the Living City Initiative are recognised, however, it is not mandatory for a developer to engage in this initiative;
- nos.50 and 58 Middle Abbey Street are in use as apartments for short-term letting;
- short-term letting is a more pragmatic use given the noise nuisance arising from the site location adjacent to a busy late-night club, No.57 -The Academy, and the Luas line;
- the area is suitable for short-term tourist accommodation, as illustrated by the prevalence of other large hotels and hostels located along Middle Abbey Street.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority did not respond to the grounds of appeal.

6.3. Observation

- 6.3.1. An observation was received from TII and this reaffirms matters raised in their original submission to the planning authority.

7.0 Assessment

7.1. Introduction

- 7.1.1. The planning authority's reason for refusal of planning permission for nine apartments on the upper floors of the NIAH-listed buildings to be used for short-term letting, does not raise any issues regarding the detailed design of the proposed development, which I note to only relate to the replacement of windows and internal alterations. The planning authority considered that the proposed use of the upper floors to the buildings on site was inappropriate based on the planning provisions outlined within the Dublin City Development Plan 2016-2022, including housing initiatives supported by the planning authority within the Plan. Consequently, I consider the substantive planning issues arising from the grounds of appeal and in assessing the proposed development solely relate to the proposed new use of the upper floors for short-term residential accommodation, which is a commercial form of residential use, and whether this use would comply with statutory and other planning provisions.

7.2. Proposed Use

- 7.2.1. The planning authority's reason for refusal refers to the location of the site in an area that can avail of the Living City Initiative and within a rent pressure zone. In assessing the proposed development, the Planning Officer recognised that despite the need to balance competing demands in the city centre, the proposed development would result in the potential loss of long-term residential stock and, if permitted, would set a precedent for further similar development that would undermine the progress made by the planning authority with regards to the Living City Initiative.
- 7.2.2. The grounds of appeal assert that the proposed use would be in compliance with zoning provisions within the Development Plan and would be an appropriate, viable and complementary use within this part of the city centre. The grounds of appeal also highlight that the site does not currently form part of the residential stock within the inner city, as the upper floors to the buildings are used as offices. Consequently, housing would not be lost as a result of the proposed development.

- 7.2.3. A zoning objective 'Z5 – City Centre' applies to the site and the Plan outlines that the primary purpose of zone 'Z5' is to sustain life within the centre of the city through intensive mixed-use development. Residential use is a 'permitted' use on lands zoned 'Z5' and the Plan does not differentiate between short-term residential use, as recently defined under the Residential Tenancies (Amendment) Act 2019, or other longer term residential uses. As noted above the site is within the area covered by the Living City Initiative, which is a property tax incentive scheme aimed at regenerating historic buildings in designated 'special regeneration areas', including Middle Abbey Street in Dublin. Policies SC30 and QH24 of the Development Plan are aimed at supporting this scheme, while policy QH25 encourages the reintroduction of residential uses within the historic centre area. The entire Dublin City area is within a rent-pressure zone, a designated area intended to moderate the rise in rents in these areas and create a stable and sustainable rental market.
- 7.2.4. Departmental Circular Letter PL10/2017 addresses 'Guidance on Planning Applications for Short Term Lettings' and is specifically aimed at protecting the existing stock of residential property in areas of high demand. Departmental Circular Letter PL4/2019 addresses 'New Regulations of Short-term Letting', which are aimed at bringing back houses and apartments currently used for short-term letting in designated rent pressure zones, to the traditional long-term rental market.
- 7.2.5. I am satisfied that permitting the proposed development would not set precedent for the loss of long-term housing in the inner city area, given the fact that office space would solely be replaced. The change of use of the upper floors to the two buildings on site would not lead to an over concentration of apartments for short-term letting in this area, given the scale of the proposal, providing nine apartments, and based on the existing expansive mix of uses in the area, including offices, retail, commercial, residential and entertainment uses, as well as other tourist accommodation comprising hotels, hostels and apartments for short-term letting. Furthermore, I am satisfied that the proposed use of the buildings for short-term residential letting would not have an adverse impact on the amenities of adjacent properties given their existing uses.
- 7.2.6. The proposed development would increase the provision of tourist accommodation in this inner city location, in compliance with policies CEE12(i) and CEE13(iii) of the

Dublin City Development Plan 2016-2022, which support the development of additional tourism accommodation at appropriate locations in the city.

- 7.2.7. While the necessity for long-term residential accommodation to be maintained in the inner-city area is recognised and supported, the proposed development does not in itself result in a reduced residential housing stock, nor would it restrict the potential for the site to be used for same in the future. The Development Plan does not require planning applications for development within the area covered by the Living City Initiative to provide justification for not providing long-term residential accommodation.
- 7.2.8. I am satisfied that the proposed change of use of the upper-floor offices to nine apartments for short-term letting in this inner-urban area, would be appropriate relative to the existing office use on site, the surrounding context and the zoning and policy provisions of the Development Plan. Furthermore, the proposed development would not have an adverse impact on the character and sustainable mix of uses in the area. Accordingly, planning permission for the proposed development should not be refused for this reason. Section 48 general contributions and section 49 supplementary contributions for the Luas Cross City project do not apply in this case given that permissions for a change of use from a commercial use to another commercial use are exempt under the terms of the respective Contribution Schemes.

8.0 Appropriate Assessment

- 8.1. Having regard to the existing development on site, the nature of the proposed development, the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend that permission be granted, subject to conditions, for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the nature and scale of the proposed development, the existing office use on site, the pattern of development in the area, the zoning objectives for the site and the provisions of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an appropriate use in this location, would not adversely impact on the character or the sustainable mix of uses in the area, would not result in the loss of long-term residential stock within the inner city and would increase the provision of tourist accommodation in this inner-city location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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. The proposed short-term residential apartments shall be let as single apartments, and shall not be subdivided, without a separate grant of planning permission.

Reason: To limit the nature of the development to that sought, in the interest of clarity.

3. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

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

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This Plan shall provide details of intended construction practice for the development, including measures to safeguard against impacts on the operation of the Luas, hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and local amenities.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

Colm McLoughlin
Planning Inspector

18th November 2019