



An
Bord
Pleanála

Inspector's Report 306157-19

Development	Change of use from office to short-term commercial residential letting to provide 6 no. studio units and all associated works
Location	41 Abbey Street Upper & 18 Liffey Street Lower, Dublin 1
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4068/19
Applicant(s)	Retirement Asset Holdings DAC
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Retirement Asset Holdings DAC
Observer(s)	Transport Infrastructure Ireland
Date of Site Inspection	21 st April 2020
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 62.5 m² and is located on the north-western side of the junction of Abbey Street Upper and Liffey Street Lower, Dublin 1. The Luas red line operates along Abbey Street Upper immediately to the north of the site.
- 1.2. The existing property is 4-storeys over basement in height, with a coffee shop use at the basement and ground floor levels and 3 storeys of vacant office use above.
- 1.3. The surrounding city centre area is characterised by a diversity of land uses including retail, commercial and pubs, with residential use noted on the upper floors of the immediately adjoining property to the south on Liffey Street Lower.

2.0 Proposed Development

- 2.1. The proposed development comprises the change of use of the vacant upper floors of the building (1st to 3rd floors) from office to short term residential letting to provide 6 no. studio units, associated lobby areas, lift facility, replacement of windows, additional glazed rooflights, alterations to internal layout, signage and all associated works.
- 2.2. The proposed studio units will be accessed via an existing ground floor level doorway on Liffey Street Lower. Two studio units are proposed at each floor level ranging in size from 20 – 21 m². Each unit accommodates a double bedroom with a small dining area and separate shower/bathroom facilities.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Permission issued on 19th November 2019 for 1 no. reason based on the potential permanent loss of residential use from the site, which is located in a rent pressure zone and can avail of the Living City Initiative. As such the development was considered to be contrary to the Core Strategy of the Dublin City Development Plan 2016-2022 and the Dublin Housing Strategy 2016-2022.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

3.2.2. Basis of Planning Authority's decision.

3.2.3. Dublin City Council's Planning Officer considered that the upper floors of the building would be suitable for studio units or 1-bedroom apartments and that the lack of private open space could be considered given the city centre location of the site. The need to balance the competing demands for city centre land was also acknowledged, including the need to provide additional tourist accommodation in promoting tourism as a key economic driver.

3.2.4. However, it was further considered that the proposed development would result in the potential loss of residential stock, meaning that less long-term and secure accommodation would be available in the city centre. The proposal was considered contrary to the Core Strategy of the development plan, which recognises that serviced residential land is a scarce resource which needs to be managed in a sustainable manner in meeting the city's housing needs.

3.2.5. It was further considered that the applicant had not made a significant effort to provide residential accommodation within a rent pressure zone and in an area subject to the Living City Initiative.

3.2.6. **Other Technical Reports**

3.2.7. **Transportation Planning Division:** No objection subject to conditions.

3.2.8. **Drainage Division Engineering Department:** No objection subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. **Transport Infrastructure Ireland:** No objection subject to conditions.

3.3.2. **Irish Water:** None received.

3.3.3. **National Transport Authority:** None received.

3.4. **Third Party Observations**

3.5. None received.

4.0 Planning History

4.1. None.

5.0 Policy and Context

5.1. Dublin City Development Plan 2016-2022

5.2. Zoning

5.2.1. The site is subject to land use zoning “Z5” (City Centre) which has the objective “to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity”.

5.2.2. The primary purpose of this use zone is to sustain life within the city centre, both during the day and at night, through intensive mixed-use development. Residential land uses are permissible under this zoning objective.

5.3. Chapter 5: Housing

5.3.1. The provision of quality housing that meets the needs of the city’s population is a key priority of the development plan. The housing policies which are relevant to this appeal case are set out below.

5.3.2. **Policy QH24:** To resist the loss of residential use on upper floors and actively support proposals that retain or bring upper floors above ground floor premises into residential use in order to revitalise the social and physical fabric of the city through measures such as the Living City Initiative, and allowing scope for the residential development standards to be relaxed for refurbishment projects subject to the provision of good quality accommodation as outlined in the development standards. To proactively promote and market the Living City Initiative in Dublin city in order to attract and encourage investment in the city’s valuable building fabric within the designated Living City Initiative area.

5.3.3. **Policy QH25:** To encourage the re-introduction of residential use into the historic areas of the city, where much of the historic fabric remains intact (e.g. the Georgian and Victorian areas), provided development is consistent with the architectural integrity and character of such areas.

5.4. **Chapter 6: City Economy and Enterprise**

5.4.1. Tourism is identified as one of the key economic pillars of the city in section 6.5.3 of the plan. The need for the continued development of appropriate tourism infrastructure, including visitor accommodation of various types, is acknowledged. Relevant policies to this appeal case are set out below.

5.4.2. **Policy 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, apart hotels, tourist hostels, cafes, and restaurants, visitor attractions, including those for children.

5.4.3. **Policy CEE13(iii):** To promote and support the development of additional tourism accommodation at appropriate locations throughout the city.

5.5. **Circular Letter PL04/2019 – New Regulation of Short Term Letting**

5.5.1. This circular provides guidance in relation to the Residential Tenancies (Amendment) Act 2019 and the Planning and Development Act 2000 (Exempted Development) (No. 2) Regulations 2019 (S.I. 235 of 2019). The new legislative provisions regulate the short-term letting of residential accommodation.

5.5.2. The aim of these provisions is to address pressures in the private rental market and regulate the loss of long-term rental properties in rent pressure areas (incl. Dublin City) for use as tourism-related, short-stay accommodation.

5.6. **Circular Letter PL10/2017 – Guidance on Planning Applications for Short Term Lettings**

5.6.1. This circular provides guidance on the short-term letting and change of use of existing residential accommodation in the long-term rental market.

5.7. **Natural Heritage Designations**

5.7.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal has been lodged by RPS on behalf of the applicant, the grounds of which can be summarised as follows:

- The upper floors of the building have been vacant for two years. The existing offices are dated and in need of significant renovation to attract new occupants and ensure full utilisation of the building;
- There is currently low demand for offices at this location, with successful offices in the area tending to have larger floorplates to meet the needs of modern businesses. Smaller offices tend to attract transient occupiers, resulting in long periods of vacancy;
- The current office use is no longer suitable for this location and a change of use is required to ensure the continued use of the upper floors of the building;
- The provision of traditional apartments within the upper floors of the building was explored, but the floorplates are too narrow to meet minimum design standards and would not be economically viable. The absence of private open space, restricted vehicular access and potential noise disturbance would result in substandard units with a high level of turnover;
- The owner of the subject building is a pension fund. Thus, any apartment units could not be owner-occupied and thus the Living City Initiative could not be availed of;
- In the event that planning permission is refused by the Board, the upper floors will be renovated to remain in office use, which may result in their continued vacancy due to the lack of demand for smaller offices at this location;
- The site is particularly suitable for short-term tourist accommodation given its location within the retail core, its proximity to high quality transport links and tourism related sights, venues and facilities;
- Recent legislative and planning reforms have been adopted to reinstate the traditional long-term rental use of houses and apartments currently being

used for short-term letting purposes in areas designated as rent pressure zones, thereby helping to ease accommodation shortage pressures being experienced in these areas;

- The subject site does not include residential uses and therefore no loss of residential units will occur as a result of the proposed change of use;
- An Bord Pleanála recently overturned the decision of Dublin City Council to refuse permission for a change of use from office to 9 no. apartment for short-term letting at Nos. 60 and 61 Middle Abbey Street, Dublin 1 (ABP Ref.PL29N.305120), with the same considerations applying to the current appeal case.

6.2. **Planning Authority Response**

6.2.1. None received.

6.3. **Observations**

6.3.1. **Transport Infrastructure Ireland:** Restates that there is no objection to the proposed development subject to conditions.

7.0 **Assessment**

7.1. I am satisfied that the main issues for consideration in this case include:

- Principle of the Proposed Development
- Unit Design and Management
- Appropriate Assessment

7.2. Each of these issues is addressed in turn below.

7.3. **Principle of the Proposed Development**

7.3.1. The current application seeks permission for a change of use of the 1st, 2nd and 3rd floors of the subject property from “office” to “commercial short-term residential letting” to provide 6 no. studio units and all associated works.

- 7.3.2. The site is subject to land use zoning objective “Z5” (City Centre), the primary purpose of which is to facilitate intensive mixed-use development to sustain activity within the city during the day and at night. Residential land uses are permissible in principle under this zoning objective. I note that the development plan does not make any further distinction between short or long-term residential uses.
- 7.3.3. While Dublin City Council’s Planning Officer considered that the building would be suitable to accommodate a studio or 1-bedroom apartment at each floor level, I note that planning permission has not been sought for this form of residential development. I further note that the granting of permission for short-term stay accommodation will not prevent the building from being repurposed as long-term residential accommodation in the future, subject to its assessment by way of a subsequent planning application. Given that the upper floors of the building are currently in office use, no loss of long-term residential accommodation will occur from the city centre on foot of the proposed development.
- 7.3.4. I acknowledge that the site is located in a rent pressure zone and within the qualifying area of the Living City Initiative. However, the designation of rent pressure zones is intended to restrict the annual rate of rent inflation in such areas, while the Living City Initiative is a tax incentive scheme which is intended to assist and encourage people to live in the historic areas of the city. In my opinion, neither of these initiatives is intended to control the change of use which is currently proposed.
- 7.3.5. I further acknowledge that there is significant pressure for an increased supply of high quality, residential accommodation in the city. However, in my opinion, there are no legislative or development plan provisions which would preclude the granting of permission for a change of use from office to short-term residential accommodation on the subject site. I further consider that there is no onus on the applicant to demonstrate why the site has not been identified for the provision of long-term residential accommodation, although I acknowledge that a justification has been provided by the applicant’s agent in this case. In my opinion, the reasons why planning permission has not been sought for long-term residential accommodation on the subject site are not relevant to the assessment of this appeal case.
- 7.3.6. The applicant’s agent has identified a precedent case in relation to a change of use from office to 9 no. apartments for short-term letting at Nos. 60 and 61 Middle Abbey

Street, Dublin 1 (ABP Ref. PL29N.305120 refers). This site is also subject to a Z5 land use zoning objective and is located within a rent pressure zone where the Living City Initiative applies. In reviewing this case, I note that Dublin City Council issued the same refusal reason as applies in this instance.

- 7.3.7. In assessing this application, the Board's Planning Inspector was satisfied that the proposed change of use was appropriate in the context of an existing office use on an inner-city site and having regard to the zoning and policy provisions of the development plan. On that basis, the Inspector recommended that planning permission be granted, with this recommendation upheld by the Board. In my opinion, the same considerations apply to the current appeal case. As such, it is considered that the principle of the development is acceptable on the subject site.

7.4. Unit Design and Management

- 7.4.1. The proposed unit sizes range from 20 - 21 m² and accommodate a combined dining/sleeping area with separate shower facilities. I note that there are no development management standards which relate specifically to tourist accommodation units.
- 7.4.2. While the units are modest in size, in my opinion, the layout is reasonable having regard to the limited number of units proposed and their intended purpose as short-stay tourist accommodation. I also note the site's proximity to an extensive range of food, beverage and entertainment facilities within the city centre which will be available to future guests.
- 7.4.3. I further consider that the proposed development would have no negative impact on the amenities of any neighbouring property, having regard to the city centre location of the site and the land use mix in the vicinity, which includes, offices, pubs, restaurants, residential and retail units. I note that the proposed studio units will be controlled by a management company, with waste collected daily in line with other business collections in the immediate area. As such, the proposed layout and management of the units is considered acceptable.
- 7.4.4. In conclusion, having regard to the land use zoning of the site, which aims to promote a diversity of uses in the city centre, and policies CEE12(i) and CEE13(iii) of the development plan which seek to facilitate and promote tourism as one of the key economic pillars of the city's economy and to support the development of additional

tourism accommodation at appropriate locations, it is considered that the proposed development would be in accordance with the proper planning and sustainable development of the area and that planning permission should be granted in this instance.

7.5. Appropriate Assessment

- 7.5.1. Given the nature and scale of the development and the location of the site relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

7.6. Note: Development Contributions

- 7.6.1. Dublin City Council's S. 48 Development Contribution Scheme 2020-2023 and the Luas Cross City S.49 Supplementary Development Contribution Scheme confirm that a change of use from one commercial development to another is exempt from the requirement to pay development contributions. As such, I recommend that no such conditions are attached to this permission.

8.0 Recommendation

- 8.1. I recommend that planning permission be granted subject to conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the nature and scale of the proposed development and to the pattern of development in the vicinity, the existing office use on the site, the Z5 zoning objective 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 not adversely impact on the character or sustainable mix of uses in the area, would not result in the long-term loss of residential housing stock in the city centre and would increase the provision of tourist accommodation in the city, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed short-term studio units shall be let as single units and shall not be subdivided or amalgamated without a separate grant of planning permission.</p> <p>Reason: In the interests of clarity.</p>
3.	<p>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.</p> <p>Reason: To protect the amenities of property in the vicinity and the visual amenities of the area.</p>
4.	<p>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 and shall include consultation with Transport Infrastructure Ireland (TII). 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, traffic management and site access arrangements and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and local amenities.</p>

5.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
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Louise Treacy
Planning Inspector

23rd April 2020