



An
Bord
Pleanála

Inspector's Report 306172-19

Development	Temporary use of Blocks A, B, G, H & J for tourist or visitor accommodation to 31 st May 2020
Location	274 North Circular Road, Dublin 7
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4100/19
Applicant(s)	Irish Student Fund (Dublin) II – Circular Student Ireland Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	James & Josephine O'Donoghue, Siobhán Long, David Travers & Carol Coleman, Alan Fitzgerald, David McKeon
Observer(s)	(1) Niall Clerkin & Aideen Gough; (2) Christina Casey; (3) Great Western Square and District Residents' Association; (4) Cllr. Marie Sherlock

Date of Site Inspection

21st April 2020

Inspector

Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 13,635 m² and is located at No. 274 North Circular Road, Dublin 7. The site also fronts onto an existing public laneway located to the rear of Rathdown Road (accessed between No. 25A and No. 51 Rathdown Road) to the west of the site. This laneway extends along the north-western, western and southern site boundaries. A residential cul-de-sac at Rosemount Road adjoins the north-eastern boundary of the site, while the St. Stephen's Green to Broombridge Luas line extends along the eastern and south-eastern boundaries.
- 1.2. The site is located approximately 2 km from the north city centre and is well served by public transport connections including the Luas and the No. 46A Dublin Bus route which operates along North Circular Road between Infirmary Road and UCD via Phibsborough and the city centre.
- 1.3. The neighbouring lands to the north are primarily residential in character. The TUD Grangegorman campus is located to the west, while the Dublin Bus Broadstone depot is located to the east of the site on the opposite side of the Luas tracks.
- 1.4. The site is characterised by a student accommodation scheme arranged in 9 no. blocks (A, B, C, D, E, G, H, J and K) ranging in height from 1- 7 storeys. This application relates to Blocks A, B, G, H and J only. Blocks A and B are located at the northern end of the site adjacent to North Circular Road and vary in height from 1-2 storeys. Block G, H and J extend along the southern and eastern boundaries and vary in height from 4 – 7 storeys.
- 1.5. At the time of the inspection, a separate student accommodation scheme was under construction on the adjoining site to the south.

2.0 Proposed Development

- 2.1. The proposed development will consist of the temporary use of Blocks A, B, G, H & J of a permitted student accommodation scheme for tourist or visitor accommodation in the period to 31st May 2020, commencing from the date of a final grant of permission. After such time, the original condition 3 of Reg. Ref. 4262/16 (ABP Ref. PL29N.248726) will apply.
- 2.2. Blocks C, D, E & K will remain in use as student accommodation.

2.3. No physical changes are proposed to the permitted development on foot of this application.

3.0 **Planning Authority Decision**

3.1. **Decision**

3.1.1. Notification of the Decision to Grant Permission subject to 3 no. conditions issued on 21st November 2019. The conditions are standard in nature.

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 proposed change of use was acceptable and that it would not be seriously injurious to the residential amenity of the surrounding area given that a precedent for tourist / visitor accommodation has already been established on the site and having regard to the temporary nature of the use.

3.2.4. **Other Technical Reports**

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

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

3.3. **Prescribed Bodies**

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

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

3.3.3. **Irish Rail:** None received.

3.4. **Third Party Observations**

3.4.1. A total of 9 no. third party submissions were made on this application as follows:

(1) Ann Moroney, No. 37 Avondale Avenue, Dublin 7;

(2) James & Josephine O'Donoghue, No. 7 Rosemount Road, Dublin 7;

(3) Siobhán Long, No. 15 Rosemount Road, Dublin 7;

- (4) Damien and Lucy Donlan, No. 5 Rathdown Road, Dublin 7;
- (5) David Travers & Carol Coleman, No. 12 Rosemount Road, Dublin 7;
- (6) Christina Casey & Damien Morgan, No. 7 Rathdown Road, Dublin 7;
- (7) Dr. David McKeon, 17 Rosemount Road, Dublin 7;
- (8) Cllr. Marie Sherlock, Great Western Square, Phibsborough, Dublin 7;
- (9) Alan Fitzgerald, No. 8 Rosemount Road, Dublin 7.

3.4.2. The grounds of objection can be summarised as follows: (1) no justification for the change of use given the deficit of student accommodation in the city; (2) the units could have been made available to students in the second half of the academic year; (3) unacceptable change to the terms of the original permission; (4) the development is at odds with government policy to restrict short-term stay tourist accommodation; (5) health and safety impacts of ongoing construction activities; (6) enforcement actions undertaken in relation to previous works on site; (7) precedent for future applications.

4.0 Relevant Planning History

- 4.1. **DCC Planning Reg. Ref. 4262/16 (ABP Ref. PL29N.248726):** Planning permission granted on 1st November 2017 for a student accommodation development comprising 444 no. bedspaces in 9 no. blocks, ranging in height from 1 to 7 storeys.
- 4.2. Condition no. 3 requires that the permitted development shall be used solely for the purposes of student accommodation as defined in Section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016, and for no other purpose without a prior grant of planning permission for a change of use. This condition also requires the development to be operated and managed in accordance with a Student Accommodation Management Plan.
- 4.3. Condition no. 4(b) required the submission of a revised Student Accommodation Management Plan to ensure the provision of residential 24-hour on-site management of the units.

5.0 Policy and Context

5.1. Dublin City Development Plan 2016-2022

5.2. Zoning

- 5.2.1. The majority of the site is subject to land use zoning “Z1” (Sustainable Residential Neighbourhoods) which has the objective, “to protect, provide and improve residential amenities”.
- 5.2.2. The northernmost part of the site is subject to land use zoning “Z2” (Residential Neighbourhoods – Conservation Areas) which has the objective, “to protect and/or improve the amenities of residential conservation areas”.
- 5.2.3. Residential land uses are permissible under Z1 and Z2 zoning objectives. Appendix 21 of the development plan (Land Use Definitions) confirms that residential land uses include student accommodation, which is defined in Section 13 (d) of The Planning and Development (Housing) and Residential Tenancies Act 2016 as follows:

“student accommodation –

(a) means a building or part thereof used or to be used to accommodate students whether or not provided by a relevant provider (within the meaning of Qualifications and Quality Assurance (Education and Training) Act 2012), and that is not for use -

(i) as permanent residential accommodation, or

(ii) subject to paragraph (b), as a hotel, hostel, apart-hotel or similar type accommodation,

and

(b) includes residential accommodation that is used as tourist or visitor accommodation but only if it is so used outside of academic term times”.

5.3. Student Accommodation

- 5.3.1. **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.

5.3.2. **Policy 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.

5.3.3. **Development Guidelines:** The development standards for student accommodation are set out in Section 16.10.7 of the plan. All such applications must be accompanied by documentation outlining how the scheme will be professional managed and how the scheme will support integration with the local community, through its design and layout.

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

5.4.1. 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. 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.

5.5. **Natural Heritage Designations**

5.5.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A group third-party appeal has been lodged by James & Josephine O'Donoghue, Siobhán Long, Alan Fitzgerald, David Travers & Carol Coleman, Alan Fitzgerald and David McKeon. The grounds of the appeal can be summarised as follows:

- Dublin City Council's grant of permission for the development is contrary to government policy to increase long-term residential rental supply and curtail short-term lets for tourism purposes;
- The original 2016 planning application stated a clear intention that the development would only be used as tourist accommodation during non-academic periods of the year;
- The proposed development would turn the local residential area into a commercial area for 9 months of the year, which is out of character with the area and would have an adverse impact on the local community.

6.2. Applicant Response

6.2.1. A response was received from John Spain Associates on behalf of the applicant on 21st January 2020, which can be summarised as follows:

- The proposed development and planning application process is in accordance with recent legislative provisions in relation to short-term residential lettings;
- Dublin City Council granted permission for a similar development at Nos. 113-115 Upper Mayor Street, Dublin 1 under Reg. Ref. DSDZ4332/18 as extended under Reg. Ref. DSDZ3044/19, which is a precedent case for the current application;
- The proposed development will benefit tourists and people on business in Dublin who wish to stay close to the city or the TUD campus at Grangegorman and will enable students to use the 4 other blocks on site during their second semester, thus securing the building's active use during this period;

- The proposed development will reduce pressure on the Dublin hotel market which is experiencing high demand and will reduce housing pressure in the rent pressure zones of Dublin city;
- Due to the timing of the completion of the development, the applicant anticipates that the development will only be partially used for tourist and visitor accommodation during term time in the period up to 31st May 2020. Thereafter, it will revert to student accommodation use only during academic term time;
- The proposal is residential in nature and as such, aligns with the permitted use on site as well as the site's Z1 zoning objective. The development will be professionally managed thereby ensuring that the temporary use will operate safely and with due regard to local residents;
- Local residents are unlikely to perceive any variation in the frequency of pedestrian movements to the site. Check-in and departure times will be during the day to negate any disturbance to residents in the evening;
- The use of the 11 no. on-site car parking spaces will have a negligible impact on the local road network, with residents more likely to use the excellent range of local public transport links to access the site;
- The temporary use will ensure the development is appropriately occupied. The proposal does not include any physical construction works, which will negate any negative impacts on the amenities of local residents;
- In granting permission for student accommodation on the site under Reg. Ref. 4262/16, Dublin City Council has already accepted the use of the site for tourist and visitor accommodation as provided for under the Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended);
- Dublin City Council's Planning Officer acknowledged the temporary nature of the development and on that basis, considered it would not seriously injure the residential amenities of the surrounding area.

6.3. Planning Authority Response

6.3.1. None received.

6.4. Observations

- 6.4.1. A total of 4 no. observations have been made by: (1) Niall Clerkin & Aideen Gough, No. 6 Rathdown Road, Dublin 7; (2) Christina Casey, No. 7 Rathdown Road, Dublin 7; (3) Great Western Square and District Residents' Association c/o Lorraine Rowland, No. 13 Great Western Square, Dublin 7; and, (4) Cllr. Marie Sherlock, Great Western Square, Dublin 7.
- 6.4.2. No new issues have been raised.

7.0 Assessment

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

- Principle of the Development
- Loss of Long-Term Rental Accommodation
- Impacts on Residential Amenity and Character of Adjoining Lands
- Appropriate Assessment

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

7.3. Principle of the Development

- 7.3.1. The current application seeks permission for the temporary change of use of Blocks A, B, G, H & J of the permitted student accommodation scheme for use as tourist or visitor accommodation in the period up to 31st May 2020. As identified in section 5.2.4 of this report above, Section 13 (d) of The Planning and Development (Housing) and Residential Tenancies Act 2016 defines student accommodation as including its use as tourist or visitor accommodation outside of academic term time. On the basis of the foregoing, I am satisfied that the principle of the development is acceptable in this instance.

7.4. Loss of Long-Term Rental Accommodation

- 7.4.1. The appellants submit that the proposed temporary change of use is contrary to government policy to increase long-term residential rental supply and curtail short-term letting for tourism purposes.

- 7.4.2. The new legislative provisions in relation to the short-term letting of residential accommodation aim to address pressures in the private rental market and regulate the loss of long-term rental properties in rent pressure areas for use as tourism-related, short-stay accommodation. In this case, the proposed change of use relates to a permitted student accommodation scheme rather than long-term rental residential properties. As such, the proposed change of use will not result in the loss of 'standard' long-term rental accommodation from the housing market.
- 7.4.3. In the event planning permission is granted in this instance, I further note that the permitted development will revert to student accommodation after 31st May 2020 in accordance with condition no. 3 of the parent permission (ABP Ref. PL29N.248726) and as such, will contribute to meeting the demand for such accommodation in the city. Thus, I am satisfied that this point of appeal is without substance.

7.5. Impacts on Residential Amenity and Character of Adjoining Lands

- 7.5.1. The appellants submit that the proposed development would turn the established residential community into a commercial area for 9 months of the year, which would be out of character with the area and have an adverse impact on the local community.
- 7.5.2. In my opinion, no negative impacts will arise to the local community on foot of the proposed change of use, which is temporary in nature. I further consider that the appellants have not identified the manner in which the proposed development would impact on the established residential amenities of the area. As previously identified, the permitted student accommodation scheme can already be used as tourist or visitor accommodation outside of academic term times and as such, the development is already deemed to be acceptable in principle on the site.
- 7.5.3. I further note that the detailed management plan which accompanies the application outlines a series of measures to ensure the efficient operation of the tourist/visitor accommodation, including measures to minimise any negative impacts to neighbouring properties. Furthermore, no physical works are proposed to the permitted buildings on foot of this planning application and as such, no construction impacts will arise.
- 7.5.4. Thus, given that the proposed change of use is already deemed to be acceptable in principle on the site under the definition of student accommodation and having

regard to the temporary nature of the permission, I am satisfied that the proposed change of use would be in accordance with the proper planning and sustainable development of the area and would have no negative impact on the residential amenities of the local community. As such, I consider that planning permission should be granted in this instance.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development, comprising a temporary change of use only, and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

7.7. Note: Development Contributions

- 7.7.1. 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 in this instance.

9.0 Reasons and Considerations

- 9.1. Having regard to the Z1 and Z2 land use zoning objectives which apply to the site, the definition of student accommodation provided under Section 13(d) of The Planning and Development (Housing) and Residential Tenancies Act 2016 which includes the use of such accommodation as tourist/visitor accommodation outside of academic term times, and the temporary nature of the permission, it is considered that, subject to compliance with the condition set out below, the proposed development would constitute an appropriate development at this location, which would not adversely impact on the residential amenities of neighbouring properties.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application. Reason: In the interest of clarity.
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Louise Treacy
Planning Inspector

22nd April 2020