



An  
Bord  
Pleanála

## Inspector's Report ABP 306787-20

---

<b>Development</b>	Change of Use at five houses from residential use to short term letting.
<b>Location</b>	Nos 14, 15, 16, 17 and 18 Grattan Court East. Dublin 2.
<b>Planning Authority</b>	Dublin City Council.
<b>P. A. Reg. Ref.</b>	4612/19
<b>Applicant</b>	Robert Pierse
<b>Type of Application</b>	Permission for Retention
<b>Decision</b>	Refuse Permission for Retention
<b>Type of Appeal</b>	First Party x Refusal
<b>Appellant</b>	Robert Pierse.
<b>Inspector</b>	Jane Dennehy
<b>Date of Inspection</b>	19 <sup>th</sup> May, 2020.

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	4
3.3. Prescribed Bodies .....	<b>Error! Bookmark not defined.</b>
3.4. Third Party Observations .....	4
4.0 Planning History.....	4
5.0 Policy Context.....	5
5.1. Development Plan.....	5
6.0 The Appeal .....	6
6.1. Grounds of Appeal .....	6
6.2. Applicant Response .....	<b>Error! Bookmark not defined.</b>
6.3. Planning Authority Response .....	7
6.4. Observations .....	<b>Error! Bookmark not defined.</b>
6.5. Further Responses.....	<b>Error! Bookmark not defined.</b>
7.0 Assessment.....	8
8.0 Recommendation.....	10
9.0 Reasons and Considerations.....	10

## 1.0 Site Location and Description

1.1. The site which is that of a terrace five four storey houses is located on the north side of Grattan Court East, a cul de sac which off the east side of Grattan Street. There is a small area of private open space to the rear of each dwelling at ground level, roof gardens at third floor level and each unit has a carport. Nos 12 and 13 which are excluded from the application are apartments adjacent to No 14 within the development is at the An office block is located opposite the site on the south side of the street and residential development is located on both sides to the east side. The houses are three-bedroom units with open plan living space at second floor level.

## 2.0 Proposed Development

2.1. The application lodged with the planning authority indicates proposals for permission for retention for the change of use from which as taken place, from permanent residential use to short term letting use. The application does not include any proposals for works facilitating the proposed retention of change of use.

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated, 4<sup>th</sup> February 2020, the planning authority decided to refuse permission based on the following reason:

*“The proposed 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 proposed development resulting in the permanent loss of five residential units within an area designated as a Rent Pressure Zone would 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 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 Reports**

The planning officer in his report outlines the policies and legislation providing for the preclusion of short term letting from exempt development within designated Residential protection Zones, notes the case made by the applicant as to balancing the need for permanent residential stock and tourism accommodation, the shortfall in supply of permanent residential accommodation, unmet housing needs that short term letting is not a use class included for the Z2 zone whereas bed and breakfast accommodation is in the CDP. He considers the proposed short term letting of the housing stock subject of the application to be at variance with the core strategy of the CDP, securing the implementation of the housing strategy and undesirable precedent.

#### 3.3. **Third Party Observations**

Seven observations were lodged at application stage in which concerns raised include that of intensity of short term occupation with up to fifty people being accommodated at a weekend many in large groups resulting in noise and nuisance all of which affects the residential amenities of dwellings in the area in use as permanent places residence.

### 4.0 **Planning History**

**P. A. Reg. Ref. 3736/13:** Permission was granted for construct seven dwellings comprising five houses subject of the current application and two apartments at the application site.

**P. A. Reg. Ref. 2899/16:** Permission was refused for revisions to the permitted development comprising extensions and setbacks providing for seven dwelling units comprising five houses, one duplex and one triplex units

**P. A. Reg. Ref. 0203/19/PL 304771-19:** A Declaration issued by the City Council was referred for review by An Bord Pleanála according to which the use of the residential dwellings for short term lettings is development, is a material change of use and is not exempt development.

According to the planning officer report, the dwellings' use for short term letting has been subject to enforcement proceedings by the local authorities.

## 5.0 Policy Context

### 5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022 (CDP) according to which the site is subject to the zoning objective Z2: *“To protect and/or improve the amenities of residential conservation areas.”*

Policy Objectives, QH3, QH5, QH6, QH7 and QH18 provide for delivery of the Housing Strategy, promotion of residential development to address shortfalls in housing provision, encouragement of attractive mixed use neighbourhoods with variety of housing types and tenures and promotion of residential development at sustainable urban densities in accordance with core strategy and achieving high quality levels of amenity within individual apartments and each apartment development

### 5.2. National Guidance and Legislative Framework (Short Term Letting)

- Action 18 of the Strategy for the Rental Sector, (December 2016) provided for establishment of a Working Group to advise the Oireachtas Committee and Minister for Housing Planning and Local Government on Short term lettings. A legislative framework providing for regularisation of short term letting was announced by the Minister in October, 2018. The “rent pressure zones” (RPZs) were announced as being subject to additional requirements for planning permission for short term letting include the administrative area of Dublin City Council.
- Section 38 of The Residential Tenancies (Amendment) Act, 2019, No 14 of 2019 provides for designation of RPZs and it is supplemented by the amendment to the Planning and Development Act, 2000, as amended by way

of insertion of section 3A. It includes a description of “Short Term Lettings” and provision is made for the making of Regulations by the Minister for the purposes of section 3A. thereof.

- The Planning and Development Act, 2000 (Exempted Development) (No 2) Regulations, 2019. (SI No 235 of 2019.) were brought into effect on 1<sup>st</sup> July, 2019. Within designated RPZs, planning permission is required for “short term letting” which is precluded from exempt development. However, short term letting within the owner/occupier’s principle place of residence in RPZs is exempt development and excluded from a requirement for planning permission subject to certain limitations and conditions.
- Circular Letter No. PL 4 /2019: (Department of Housing, Planning and Local Government.) provides for an advisory note of the legislative reforms on regulation of short term letting.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

An appeal was received from the Edmondson Architects on behalf of the applicant on 2<sup>nd</sup> March,2020. The appeal is outlined in brief below.

- The dwellings are not suitable as permanent places of residence: the bedrooms are small, arranged over four storeys and there is no suitable private open space. The short term letting, which involved significant start-up costs and was commenced, in good faith, was entered into because the applicant failed to sell them in 2017. There are bookings which need to be honoured in the course of winding down the operation. It is requested that permission be granted for a period of three years to take into account the applicant’s predicaments.
- The location is at the outer edge of the Z2 residential zone and the ‘Z6’ zone (*provide for the creation of and protection of enterprise and to facilitate opportunities for employment creation.*)

- CDP policy is equally weighted with regard to tourism accommodation and infrastructure in the city and the core strategy. Section 6.5.3 includes tourism and business tourism and the attraction international conferences and events as one of the key economic pillars for the city. A blanket refusal of short term letting is unbalanced with regard to competing policies having regard to the nature of the subject properties and their business tourism location. The proposal supports the City Council's enhanced function in promoting tourism as provide for in Policy CEE 12 (i) to promote and facilitate tourism as a key economic pillar I the city economy and a major generator of employment supporting the provision of necessary increases in facilities etc. and CEE 13 for working with stake holders in delivering the targets in "Destination Dublin: A Collective Strategy for Growth to 2020" which includes doubling visitor numbers and promotion of additional tourism accommodation at appropriate locations.
- The interim legislation inadvertently thwarted the applicant's business model in that the market for business tourism at the location has been proven. The planning authority unfairly considered one potential use (permanent residential) for the properties which has proven unviable.
- Ms Mary Stock, Failte Ireland in an observation on the application lodged under P. A. Reg. Ref. 4110/17 refers to unprecedented hotel occupancy rates at 94 percent and to the essential delivery of new accommodation. A grant of Permission enables reasonable and responsible business planning to wind own and programme and effect change.
- A grant of permission would not set undesirable precedent: Conversion of residential units for short term letting was deemed permissible in certain circumstances, having regard to: The Dolphin vs Dublin City Council regarding Nos 22 -24Augnier Street. (ABP 303453-10)

## 6.2. Planning Authority Response

There is no submission from the planning authority on file.

## 7.0 Assessment

- 7.1. The case made in the appeal as to the need for careful consideration and recognition, of the contribution of short-term letting accommodation within tourism infrastructure, particularly with regard to the site location, having regard to relevant national, regional and local policies on the tourism especially overseas in connection with business and leisure and, the pivotal role of tourism within the historic core of Dublin City is acknowledged and appreciated. Notwithstanding the housing supply issues within the identified “rent pressure zones” (RPZs) the claim by the appellant’s agent that applications for change of use of housing stock from permanent or long-term residential use to accommodation for short term letting warrant consideration as opposed to an outright blanket ban is reasonable.
- 7.2. However, both national policy and the amended legislative framework, (details of which are available under in section 5.2) indicate a presumption of prioritisation for reversal of the decline in supply of rental properties in use as permanent residential accommodation, within the identified RPZs among the range of very creditable and worthy competing interests contributing to sustainable economic viability and vitality within the central city. The proposed change of use involves a reduction stock available for permanent occupancy which is also in conflict with both the principles within the Dublin Housing Strategies and the overriding Core Strategies incorporated within the CDP. A grant of permission for an indefinite or even for a limited three-year period as proposed in the appeal, would not render the proposed development acceptable as it is incompatible strategic policies and designation of the city as a rent protection zone as reflected within the relevant amended legislative framework.
- 7.3. It is not agreed that the five houses are not suitable for permanent occupation irrespective of the inability to achieve sales of the properties as indicated in the appeal. It is not clear the feasibility of letting on the rental market on a permanent basis was considered. They are three-bedroom dwellings which in form and design are typical for inner urban occupation but generous in overall internal habitable space. The vertical emphasis and relatively narrow width, internal layout, and private open space available at ground level and over the second floor is becoming increasingly common and accepted, especially in urban infill development. Also,



there are a wide range of service and facilities and transport options within the neighbourhood.

- 7.4. It is acknowledged that the applicant implemented the change of use to short term letting based on the presumption of an exempt development entitlement prior to the introduction of the legislative framework which provided for designation of rent pressure zones and the requirement for planning permission to be obtained for retention of short term letting use. However, this is not a planning consideration that can be taken into account.
- 7.5. Finally, it is not accepted that the circumstances of the proposed retention of the change of use on an permanent basis or for a temporary period are such that precedent could not be taken to support similar proposals for short term letting period within the rent protection zone having regard to current national and local strategic policy.
- 7.6. Separately, although there is no direct reference to the zoning objective within the reason attached to the decision to refuse permission it is raised in both the planning officer report and the appeal. As is indicated in the planning officer's report, there is no specific use class for short term letting for development within areas subject to the zoning objective: Z2: residential conservation area. Furthermore, short term letting is clearly distinct from and no comparable to bed and breakfast or guest house accommodation among the use classes for the Z2 zoned lands which contribute to the tourism and tourism infrastructure and involves on site management. The proposed development has no concierge and is presumably managed remotely.
- 7.7. The observer parties who lodged submissions at application stage make a reasonable point as to potential total impact of simultaneous short-term occupation of the five three bed houses by large groups which can lead to potential for noise and nuisance in a neighbourhood. The amenity potential, character and encouragement of good neighbourhood environments can be significantly diminished if there is an over representation of short-term letting accommodation in dwelling clusters within a residential area. The proposed development would adversely affect and would fail to contribute to the improvement of the residential amenities of the residential conservation area as provided for under the Z2 zoning objective.

### **Environmental Impact Assessment Screening.**

- 7.8. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **Appropriate Assessment Screening.**

- 7.9. Having regard to the small-scale nature of the proposed development and, to the serviced inner suburban location, no Appropriate Assessment issues proposed development would not 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. In view of the foregoing it is recommended that the planning authority decision to refuse permission be upheld based on the reasons and considerations which follow below.

## **9.0 Reasons and Considerations**

The proposed retention of the change of use to short term letting on for an indefinite or a temporary period would result in the five houses being withdrawn from the available supply of residential accommodation for permanent occupation within a designated "Rent Pressure Zone" and, would exacerbate the existing shortage of residential accommodation for permanent occupation within the centre of the city. As a result, the proposed development would be contrary to the Housing Strategy and Core Strategy which seeks to secure national policy in meeting the housing needs of the City, ensure a speedy effective and sustainable step-up in future housing supply and, to reverse the scale of unmet housing needs in line with the policy objectives for encouragement of permanent residential communities in mixed use sustainable neighbourhoods provided for in the Dublin City Development Plan, 2016-2022. The

proposed development would therefore be contrary to national, and local policy, and would be to the proper planning and sustainable development of the area.

**Jane Dennehy**  
**Senior Inspector**  
**27<sup>th</sup> May, 2020.**