



An
Bord
Pleanála

Inspector's Report ABP 308684-20.

Development	Change of use from office to townhouse for use as short-term letting accommodation, minor elevational treatments to include replacement of front elevation to sash window and associated site works.
Location	9 Lennox Place/ 16 Portobello Harbour.
Planning Authority	Dublin City Council
P. A. Reg. Ref.	WEB 1588/20
Applicant	Joseph Hughes PRSA and Joseph Hughes PRB.
Type of Application	Permission
Decision	Refuse Permission
Type of Appeal	First Party x Refusal
Appellant	Joseph Hughes PRSA and Joseph Hughes PRB.
Date of Site Inspection	25 th February, 2021.
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. The site has a stated area of fifty-eight square metres and is located at the corner of Lennox Place and Portobello Harbour. An apartment building is located opposite the site on the south side corner of Portobello Harbour and Lennox Place. The houses in the area, including Lennox Terrace at the rear of the site are mainly by residential development interspersed with some retail and commercial use.
- 1.2. There are pay and display on street parking along the local roads, a Dublin Bikes cycle station at Portobello and several bus routes serving the area.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for change of use from office to townhouse for use as short-term letting accommodation along with minor elevational treatments to include replacement of front elevation to sash window and associated site works.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 21st October, 2020, the planning authority decided to refuse permission based on the reason set out below:

“The development, by itself and by the precedent that 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, introducing a short term letting unit within an area Zoned Z1: Sustainable Residential Neighbourhoods and designated as a Rent Pressure Zone, 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 proposed development would therefore be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

- 3.2.1. The planning officer in his report indicates concern as to discontinuation of available permanent residential use of the dwelling, having regard to undersupply of housing and, potential precedent for further similar development. The proposed alterations to the elevations, which were also subject of the prior application are stated to be acceptable. (P. A. Reg. Ref.3852/14 refers.)
- 3.2.2. It is noted from the Transportation Planning Division 's report on the prior proposal for change of use to residential from office that there was no objection, the lack of inclusion of parking provision being acceptable. (P. A. Reg. Ref.3852/14 refers.)
- 3.2.3. There is no objection to the proposal from the Drainage Division according to its report of 11th September, 2020.

3.3. Third Party Observations

- 3.3.1. Submissions were lodged by two parties, indicating objections to the proposed short term-letting of the residential accommodation.

4.0 Planning History

P. A. Reg. Ref.3852/14: Permission was granted, subject to conditions of a standard nature, for change of use from office to a three-bedroom residential property with a balcony, elevational changes to both street-front elevations including the construction of a chimney breast to the west gable elevation, one new rooflight to the rear of the property and all associated site works.

P. A. Reg. Ref 0131/97 - Permission was granted for a change of use from mixed commercial uses to office use with associated internal and elevation changes.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site comes within an area subject to the zoning objective Z1: *“to protect, provide for and/or improve residential amenities.”*

Policy CEE12 provides for 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 and Section 6.5.3 and Policy CEE13 promotes and supports the development of additional tourism infrastructure and accommodation at appropriate locations throughout the city.

5.2. National Strategic Policy.

The Administrative area of Dublin City Council has been designated as a Rental Pressure Zone (RPZ) whereby “short-term letting” unless within the owner occupier's principal place of residence is subject to a requirement for planning permission.

Section 38 of The Residential Tenancies (Amendment) Act, 2019, No 14 of 2019 provides for designation of RPZs supplemented by the amendment to the Planning and Development Act, 2000, as amended by way of insertion of section 3A which includes a description of “Short Term Lettings” in which provision is made for the making of Regulations by the Minister for the purposes of section 3A. thereof.

Refers. The Planning and Development Act, 2000 (Exempted Development) (No 2) Regulations, 2019 (SI No 235 of 2019) were brought into effect on 1st July, 2019.

Circular Letters: PL10/2017) and PL4 /2019 refer.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was lodged by HRA planning on behalf of the applicant on 16th November, 2020. According to the appeal:

- The building has a historical commercial use and the existing use is office use and the short-term letting use, as a townhouse is appropriate for the location and would not result in loss of long-term residential stock within the city would increase tourist accommodation. The office use ceased in 2017 and the building has been vacant since 2017. The prior grant of permission for change of use from office to residential use was never implemented.
- The configuration of the building is such that it is not optimal for long term use as a family dwelling. The internal layout and multiplicity of stairs and lack of private open space and storage areas and the lack of scope for an extension to be built renders it unsuitable for a young family.
- The proposed development, in increasing the supply of tourist accommodation in the area is consistent with the Policy Objectives CEE12 and CEE13 of the CDP. The Government Circulars (PL10/2017) and PL4 /2019) relating to short-term letting accommodation are not relevant to the subject proposal as they are focussed on protection of existing housing stock and returning stock in rent pressure zones to the rental market.
- The references in the planning officer report to the City Council's 'Core Housing Strategy' in leading to the decision to refuse permission are inaccurate as the property has been in commercial use for over twenty-three years and is a vacant office building. In contrast to use as long-term residential accommodation the building is entirely suitable for short-term letting purposes.

6.2. Planning Authority Response

- 6.2.1. A submission containing a set of conditions, prepared by the planning officer all of which are of a standard nature and which are recommended for inclusion in the event that permission is granted has been provided in response to the appeal by the planning authority in a submission dated 14th December, 2020.

7.0 Assessment

- 7.1. In the appeal it is stated that the existing permitted use is 'office' use, that the building was vacated in 2017 and, that the permitted change of use to residential use was not taken up. The accuracy of the statement in the appeal that the building is unoccupied is somewhat questionable even though a commencement notice may not have been issued in relation to the grant of permission under P. A. Reg. Ref.3852/14. Although an internal inspection was not undertaken, it was clearly evident from the street that at least one ground floor room was in use as a bedroom.
- 7.2. Notwithstanding the contentions in the appeal, that the building is not suitable for residential use for a family unit, it should be borne in mind that historically, the houses in Portobello were purpose built for long term residential use, within a neighbourhood, with some ground floor spaces, in use as local shops with living accommodation above. It is not accepted that the subject building, notwithstanding the confined site configuration, that of the building and, its internal layout is not suitable for occupation, particularly given the local residential neighbourhood location within the central city area.
- 7.3. Furthermore, current day household formation is not confined solely to family units and as such the configuration of the building and its internal layout may be suitable for various forms of household and/or live work unit use. As such it is considered that the case made in the appeal that the proposed development has no material relevance to current policy objectives and concerns about the supply of long-term residential accommodation is not persuasive. It is therefore agreed with the planning officer that use of the building for short term, (residential) letting is contrary to national and local policy for reversal of the shortage of the supply of long-term residential accommodation on the rental market due to short-term letting.
- 7.4. It is also agreed with the planning officer that precedent could be taken for similar proposals for use for accommodation suitable for long term permanent residential occupation for short-term letting in the event of favourable consideration of the subject proposal.
- 7.5. It is agreed with the planning officer that the proposed alterations to the elevations and replacement of the shopfront would be acceptable.

7.6. Environmental Impact Assessment Screening.

- 7.6.1. Having regard to the nature of the proposed development and its location in a serviced inner suburban area in the city, 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.

7.7. Appropriate Assessment Screening.

- 7.8. Having regard to the location and to the nature of the proposed development in a serviced inner suburban area in the city, no Appropriate Assessment issues arise. The 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 refuse permission be upheld, based on the reasons and considerations below.

9.0 Reasons and Considerations

Having regard to the Dublin City Development Plan, 2016-2022 according which the site location is within an area subject to the zoning objective, Z1: *“(Sustainable Residential Neighbourhoods): to protect, provide for and/or improve residential amenities”* and, to the designation of the administrative area of Dublin City Council as a “Rent Pressure Zone” it is considered that the proposed use of the building on the site for short term letting would adversely affect the availability of long term residential accommodation within the residential neighbourhood at Portobello in the city and, would therefore be contrary to the proper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector
1st April, 2021.