



An
Bord
Pleanála

Inspector's Report ABP-317636-23

Development

PROTECTED STRUCTURE: The development will consist of proposed change of use of 18 and 19 Merchant's Quay from office use of the ground floor and 3 residential accommodation units on the 1st, 2nd and 3rd floors overhead to Hostel (tourist) use with modifications to existing rear flat roof, amenity space at roof level, associated internal modification works and all associated site works and services

Location

18/19, Merchant's Quay, Dublin 8

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3705/23

Applicant(s)

Claus Peter Pfeffer

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s) Claus Peter Pfeffer

Observer(s) None

Date of Site Inspection 09/09/2023

Inspector Lorraine Dockery

1.0 Site Location and Description

- 1.1 The subject site, which has a stated area of 243 square metres, is located at 18 and 19 Merchant's Quay, Dublin 8 and contains a four-storey terraced building. The subject property is stated to contain office use at ground floor level with three no. residential units overhead. The existing buildings are Protected Structures (RPS Ref. 5081 and 5082). The office use at ground floor level appears vacant while the upper floor appeared, at the time of my site visit, to be occupied.

2.0 Proposed Development

- 2.1. Permission is sought for the proposed change of use of the existing premises from office use at ground floor level and 3 no. residential units on the 1st, 2nd and 3rd floors overhead to Hostel (tourist) use with modifications to existing rear flat roof, amenity space at roof level, associated internal modification works and all associated site works and services. The subject buildings are designated as Protected Structures.
- 2.2. The stated floor area of the proposed structure is 620m².

3.0 Planning Authority Decision

3.1. Decision

The planning authority REFUSED permission for one no. reason as follows:

1. The proposal to change the use of existing housing stock from permanent residential use to accommodation for short term tourist rental accommodation would be contrary to Section 15.14.3: of the Dublin City Development Plan 2022-2028 which states that there is a general presumption against the provision of dedicated short term tourist rental accommodation in the city due to the impact on the availability of housing stock. The proposal would therefore, if permitted would be contrary to Dublin City Development Plan 2022-2028 and the proper planning and sustainable development of this location

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The main points of the planner's report include:

- Decision reflects recommendation of Planner's Report; recommends grant of permission

3.2.2. Other Technical Reports

Road Planning Division- No objections, subject to condition

Drainage Division- No objections, subject to conditions

Conservation Section: No objections, subject to conditions

Environmental Health Officer: No objections, subject to conditions

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland: Section 49 Supplementary Development

Contribution Scheme-LUAS Cross city applies

4.0 **Planning History**

The most recent relevant history is as follows:

5337/22

PROTECTED STRUCTURE: Planning permission REFUSED for proposed change of use of 151m² from permitted office use to Hostel (tourist) use (and associated works) at ground floor level office of 18 -19 Merchants Quay, Dublin D08 CC90 (a protected structure), also new rooflight to rear flat roof, and associated internal modifications. The reason for refusal related to impacts on architectural detail and character of the original structure and inadequate standard of accommodation for hostel occupants.

5.0 Policy and Context

5.1. Development Plan

The Dublin City Development Plan 2022-2028 is the operative City Development Plan.

Zoning- 'Objective Z5' which seeks 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'.

'Hostel' development is 'permitted in principle' within this zoning objective

The site is located within part of the City Quays Conservation Area, Liffey Pedestrian Corridor and the Liberties Newmarket SDRA 15.

Section 15.14.3 Short Term Tourist Rental Accommodation

There is a general presumption against the provision of dedicated short term tourist rental accommodation in the city due to the impact on the availability of housing stock. Applications for Short Term Tourist Rental Accommodation will be considered on a case by case basis in certain locations that may not be suitable for standard residential development such as tight urban sites where normal standards or residential amenity may be difficult to achieve. Applications may also be considered in locations adjacent to high concentration of night / time noisy activity where standard residential development would be unsuitable.

Policy CCE26:Tourism in Dublin and Policy CCE 28:Visitor Accommodation are considered relevant

5.2. Natural Heritage Designations

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

5.3. EIA Screening

Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and

outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest 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

A first party appeals was received, which may be broadly summarised as follows:

- Cites Guidance Note for Local Authorities for Regulating Short Term Letting (July 2019) in support of appeal
- Upper part of property is a 'house' as defined in above Regulations
- Cannot set an undesirable precedent if applications are assessed on a case-by-case basis
- As a result of local circumstances, the accommodation has failed to attract any long-term residential occupiers and has been periodically used by foreign students on short term contracts during term-time. The building has never successfully functioned as residential premises
- Explains local context, which is contended is not suitable for introduction of families into the existing accommodation due to social factors. It is located beside homeless centres and drugs administration centre fronting onto a busy one-way route out of city centre in an area with drugs related anti-social behaviour- location is one which would be excluded under Government guidelines
- Proposed development will add on-street animation, surveillance with a manned reception and will make a positive contribution to the locality. Reason for refusal cannot be sustained

- Parking, refuse collection and delivery area are in place as building forms part of wider complex of buildings; operated by an established management company
- Shortage of all types of accommodation in the city; the suppressing of one type of accommodation over another is not a solution to a shortage of supply generally

6.2. **Planning Authority Response**

A response was received which requested that that Board uphold their decision. However, if permission is granted that the following conditions be applied (i) payment of section 48 development contribution and (ii) condition requiring the payment of a section 49 Luas X City development contribution

6.3. **Observations**

None

6.4. **Further Responses**

None

7.0 **Assessment**

- 7.1. I have read all the documentation attached to this file including inter alia, the appeal submissions, the report of the Planning Authority and the further response received, in addition to having visited the site. The primary issue, as I consider it, relates to the reason for refusal which issued from the planning authority.
- 7.2. The planning authority raises concerns that the proposal to change the use of existing housing stock from permanent residential use to accommodation for short term tourist rental accommodation. They state that the proposal would be contrary to Section 15.14.3 of the Dublin City Development Plan 2022-2028 which states that there is a general presumption against the provision of dedicated short term tourist rental accommodation in the city due to the impact on the availability of housing

stock. I note section 15.14.3 of the operative City Development Plan in this regard. While I note this section states that there is a general presumption against the provision of dedicated short term tourist rental accommodation, I consider that there is some flexibility in that it continues by stating that applications will be considered on a case by case basis in certain locations, including locations adjacent to high concentration of night time noisy activity where standard residential accommodation would be unsuitable.

- 7.3. At the outset, I do not concur with the opinion of the appellant that the area is unsuitable for family accommodation due to its location fronting onto a busy traffic route. This is a city centre location and traffic noise associated with such locations is to be expected. I note the provision of residential accommodation along the length of the quays. I consider that the general city centre area is appropriate for family living and would welcome such accommodation, subject to an appropriate standard of accommodation being provided and subject to any necessary grants of permission. The provision of suitable family units at such locations has the potential to add significantly to the vibrancy and vitality of the city, whilst making use of often under-utilised upper floors, similar to many other cities.
- 7.4. Notwithstanding this, I note the relatively small scale of the existing premises and the quite limited loss of residential accommodation involved in this instance, namely three units. In isolation, I am of the opinion that the loss of three residential units would not impact in a meaningful way on the supply of accommodation within the city centre. In terms of setting of precedent, I note that each application is assessed on a case by case basis. I note the quite limited floor area of the existing units with no private open space (although communal space is available and proximity to public parks is noted) and somewhat limited storage space. I note the argument put forward by the appellants regarding the suitability of the units for family accommodation and the difficulty of attracting long-term residents to the units due to issues cited including anti-social problems. Given the nearby uses cited in the appeal documentation, it is not without possibility that there may be night-time, noisy activity within the area- some of which may be anti-social in nature. The ground floor office unit is currently vacant and adds little to the amenity of the streetscape. I note that there appears not to be widespread provision of tourist hostel accommodation within the immediate area. I note other policies within the operative City

Development Plan which generally support tourism and visitor accommodation in Dublin, including Policy CCE26. I have also assessed the proposal against Policy CCE28 and am satisfied in this regard.

- 7.5. In terms of impacts on the built heritage of No.s 18 and 19 Merchant's Quay, given that they are designated as Protected Structures in the operative City Development Plan (RPS Ref No.s 5081 and 5082). I note the report of the Conservation Officer in the planning authority which states that in principle, retention of Protected Structures in long-term residential use is preferable but that in this instance, the two Protected Structures have been significantly altered with little surviving historic fabric and therefore a grant of permission is recommended, subject to conditions. I note the number of Protected Structures within the wider area. The works proposed are primarily internal in nature and I am satisfied that they would not impact negatively on the character and setting of any nearby Protected Structures.
- 7.6. I consider that the proposal has the potential to provide more short-term accommodation as a hostel development at this location than it would currently provide as individual residential units on a long-term basis. I do not have issue with the proposal before me and consider it to be in accordance with the proper planning and sustainable development of the area and consistent with the policies and objectives of the operative City Development Plan.

Other Matters

- 7.7. I note that none of the other sections within the planning authority including the Conservation, Roads and Drainage Divisions have raised concerns in relation to the proposed development, subject to conditions.

Conclusion

- 7.8. Having regard to the nature and extent of the proposal put forward, I am satisfied that the proposed development is in accordance with the zoning objective of the City Development Plan, which seeks 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity', is in keeping with the pattern of development in the area and is in accordance with the proper planning and sustainable development of the area.

8.0 Appropriate Assessment Screening

8.1 Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

9.0 Recommendation

9.1. I recommend permission be GRANTED subject to conditions.

10.0 Reasons and Considerations

Having regard to the 'Z5' zoning objective which applies to the site, to its location within the city centre and the limited extent of the works to the Protected Structure to facilitate the change of use, it is considered that, subject to compliance with the conditions set out below, the proposed development would not detract from the character and setting of the Protected Structure or any neighbouring property, would serve to keep the building in active use and would increase the provision of tourist accommodation in the city. 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 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.
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	Reason: In the interest of clarity
2.	<p>The hostel shall accommodate a maximum of 46 number bed spaces, as per the plans received by the planning authority on the 1st day of August 2023.</p> <p>Reason: In the interest of clarity and to ensure a satisfactory standard of development.</p>
3.	<p>A hostel management plan shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this Order, which shall set out details of the management of guest reservations, building access arrangements, accommodation servicing and maintenance, and waste management segregation, storage and collection arrangements.</p> <p>Reason: To ensure a satisfactory standard of development</p>
4.	<p>The hostel accommodation shall be used as short-term tourist accommodation only and shall not be used as long-term or permanent residential accommodation.</p> <p>Reason: To ensure a satisfactory standard of development.</p>
5.	<p>Water supply and drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management.</p>
6.	<p>Prior to the commencement of development, the developer shall enter into a water and wastewater connection agreement with Irish Water.</p> <p>Reason: In the interests of public health</p>
7.	<p>The developer shall comply with all requirements of the planning authority in relation to conservation matters</p> <p>Reason: In order to protect the original fabric, character and integrity of the Protected Structures and to ensure that the proposed works are carried out in accordance with best conservation practice</p>

8.	<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. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, machinery storage and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission</p>
10.	<p>The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City (Saint Stephen's Green to Broombridge) in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid</p>

<p>within three months of the date of this Order or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Lorraine Dockery
Senior Planning Inspector

10th September 2023