



Inspector's Report

PL-500989-DN-26

Development

PROTECTED STRUCTURE: Alteration to development previously approved under Reg. Ref. 2926/20/ ABP Ref. 308189-20 comprising the omission of Condition 2 as attached to Reg. Ref. 2926/20/ ABP Ref. 308189-20.

Location

97, North Circular Road, Dublin 7

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

WEB5965/25

Applicant(s)

JMA Ventures Limited

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party Normal Planning Appeal

Appellant(s)

JMA Ventures Limited

Observer(s)

Catherine O'Flynn

Date of Site Inspection

22 May 20269

Inspector

Gillian Kane

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1.0 Site Location and Description

- 1.1.1. The site is located along North Circular Road, approximately 1.5 km northwest of the city centre. It is part of a terrace of four similar units and contains a two-storey over basement residential property which accommodates a number of separate apartments. All four properties within the terrace are Protected Structures in accordance with the Dublin City Development Plan 2022-2028.

2.0 Proposed Development

- 2.1. Permission is sought to alter development previously approved under Board decision ABP-308189-20 (Planning Authority reg. ref. 2926/20), to comprise the omission of condition no. 2.
- 2.2. Condition no 2 of the Boards decision stated:
 2. This permission does not authorise a material change of use of the property. No material change of use, including use as emergency homeless accommodation, shall be effected unless otherwise authorised by a prior grant of permission.

Reason: In the interest of clarity.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. By order, the Planning Authority indicated their intention to REFUSE permission for the following two reasons:
 1. Having regard to the Z2 residential conservation zoning objective 'To protect and/or improve the amenities of residential conservation areas' and the Protected Status of the main house, the proposed development by itself and by the precedent for which a grant of permission would set would be contrary to the provisions of the City Development Plan 2022-2028 under Section 15.13.9 and Policy QHSN29 which aim to encourage the establishment of sustainable residential communities avoiding the overconcentration of particular housing typologies in one location. It is considered that the proposed development, both by itself and by the precedent it would set for other development would, therefore, seriously injure the amenities of the property and of residential amenities within the immediate vicinity, the streetscape and the

Conservation Area and would be contrary to the provisions of the Dublin City Development Plan and the proper planning and sustainable development of the area.

2. Condition 2 of the previous permitted development (Plan No. 2926/20 / ABP-308189-20) precludes a material change of use, including use as emergency homeless accommodation unless otherwise authorised by a prior grant of planning permission. The proposed omission of Condition 2 would give rise to a change of use from long-term to short-term residential use, which is not considered to be compatible with the special architectural character, historic fabric and special interests of the Protected Structure. Therefore, the proposed development would contravene Policy BHA 2 (b), (d), (f) and (g) of the Dublin City Council Development Plan 2022-2028 and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. **Drainage Division:** No objection

3.2.2. **Conservation Report:** Open enforcement case on use of protected structure as emergency hostel without permission. Justification for proposed development not submitted. CO concerned that omission of condition no. 2 would give rise to a change of use, including use as emergency homeless accommodation. Comments of CO on previous history file regarding overly intense use of protected structure are still relevant. Proposed development would give rise to intensification of wear and tear which would be deleterious to the historic fabric and special character of the protected structure. The occupation of the Protected Structure by different people for short intervals could result in a paucity of due care and appreciation of the surviving special interest of the structures resulting in potential damage. Long term residential use more appropriate. Proposed development would contravene policy BHA2(b),(d),(f) and (g). Refusal recommended.

3.2.3. **Planning Report:** Notes planning history of subject site. Notes that applicant's agent submits that the p[roperty is used to provide homeless accommodation. Planner notes that this is in contravention of condition no. 2 of An Bord Pleanála decision, notwithstanding the agent's submission that long term homeless accommodation does not constitute emergency homeless accommodation. Planner notes that There is no legal definition within the Development Plan of what constitutes 'Emergency' or

'Temporary' homeless accommodation. Planner notes that applicant has not indicated compliance with policy QHSN29 regarding over-concentration of such accommodation in areas. Planner states that Planning Authority has serious concerns with regard to removal of condition no. 2, given the report of the Enforcement Officer that as of August 2025 32 no. bed spaces were recorded on site. Planner notes that appropriate levels of residential amenity apply to all models of tenure, including those exiting homelessness. Notes that current set up of c.4 bedspaces per unit which is below the minimum standards for bedsit units under the 2025 Apartment Guidelines results in the accommodation more akin to hostel accommodation. Planner states that permission was granted for studio residential apartments "generally for a single person" and questions whether units on site can accommodate 4 no. bed spaces plus kitchen / dining. Planner notes report of CO recommending refusal of permission. Recommendation to refuse permission for 2 no. reasons.

3.3. **Prescribed Bodies**

3.3.1. No comments made.

3.4. **Third Party Observations**

3.4.1. Submissions to the Planning Authority from residents of no. 111 North Circular Road raised issues of over concentration of similar accommodation in the area, over concentration of residents in the building, breach of planning conditions / policies, inappropriate use of the building, anti-social behaviour.

4.0 **Relevant Planning History**

4.1.1. **ABP-323790-25:** Coimisiún declared that (a) The established use as 9 no. studio apartments, which are defined as small units with a combined living/sleeping area generally provided for a single person in the 'Design Standards for New Apartments 2025', to the proposed use as accommodation for up to four persons per studio unit, constitutes a material change of use by virtue of the intensification of use, as the number of persons residing in the property and associated impacts raises planning considerations that are materially different to the permitted use in relation to residential amenity for the occupants. The intensification of use would be a material change of use and would therefore constitute 'development' and would not be

exempted development. b) The material change of use would be contrary to Condition No. 2 of ABP-308189-20, which is the relevant permission under the Act. The Coimisiún decided that the development was not exempted development.

4.2. **ABP-308189-20:** (PA Ref. 2926/20): Planning permission granted for the retention of removal of non-original stud partition walls, kitchenettes and bathroom ware and for works that comprised the reconfiguration of walls to accommodate kitchenettes and bathrooms in each apartment; a reduction in the number of apartments from 10 to 9; alterations to existing fire-protection measures; Installation of upgraded services; repair and restoration of original features; replacement of all non-original windows with one over one double glazed sash windows; associated siteworks and services. Supporting documentation stated that the development will be used for the provision of emergency accommodation for homeless people in Dublin.

4.3. Condition No. 2 of that decision stated that:

This permission does not authorise a material change of use of the property. No material change of use, including use as emergency homeless accommodation, shall be effected unless otherwise authorised by a prior grant of permission.

Reason: In the interest of clarity.

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

5.1.1. No. 97 North Circular Road is listed on the Record of Protected Structures, (Ref. 1613). The building is also listed on the NIAH (Ref. 50070012) and is noted for architectural and artistic special interest.

5.1.2. The site is zoned objective Z2 – Residential Neighbourhoods (Conservation Areas), which seeks ‘To protect and/or improve the amenities of residential conservation areas’.

5.1.3. ‘Residential’ use is listed as permissible under the Z2 zoning objective.

5.1.4. Policies of note include:

QHSN27 - Homeless Action Plan 2022-2024, a Framework for Dublin - To support the implementation of the Homeless Action Plan 2022-2024, a Framework for Dublin

or any subsequent review and the Housing First National Implementation Plan 2022-2026 and support related initiatives to address homelessness.

QHSN28 - Temporary Homeless Accommodation and Support Services - To ensure that all proposals to provide or extend temporary homeless accommodation or support services shall be supported by information demonstrating that the proposal would not result in an undue concentration of such uses nor undermine the existing local economy, resident community or regeneration of an area. All such applications shall include: a map of all homeless services within a 750-metre radius of the application site, a statement on the catchment area identifying whether the proposal is to serve local or regional demand; and a statement regarding management of the service/facility.

QHSN29 - Temporary Accommodation Located in the City Centre - To ensure a review of the existing provision of temporary/homeless accommodation in the city centre, with a specific regard to Dublin 1, 7 and 8. The aim of which should be to reduce the overconcentration of services in those locations and to provide more temporary/homeless accommodation in areas not currently providing such services. There will also be a general presumption against the development and expansion of any new temporary/homeless accommodation services within Dublin 1, 7 and 8, including adaptation of tourist hostels and hotels, in acknowledgement of the existing concentration of such uses. Nothing of this policy will interfere with the Council's humanitarian obligation to provide suitable emergency accommodation to those in need.

QHSN33 - Emergency Accommodation - To facilitate and support relevant agencies in the development of emergency accommodation that is socially inclusive, including hostels for homeless individuals of all genders. Applications for emergency temporary accommodation including applications made by public bodies will be requested to submit evidence to demonstrate that there is not an overconcentration of emergency accommodation within an area, including a map showing all such facilities within a 0.75km radius of the proposed location of the new facility.

- 5.1.5. **Section 15.13.9** refers to hostels / sheltered accommodation / family hubs. Family hubs are emergency accommodation facilities for families who become homeless and who have no alternative other than commercial hotels. Family hubs are not long

term facilities and will act only as temporary accommodation until housing can be provided under social housing supports, as supply becomes available. Family hubs can comprise of either purpose built accommodation or conversion of existing residential accommodation for the use as shared living environments. Family hubs shall provide appropriate high quality play spaces for children, cooking and laundry facilities and communal recreational spaces. The section requires that applications for such uses include the following:

- A map of all homeless and other social support services within a 750 m radius of application site.
- A statement on catchment area, i.e. whether proposal is to serve local or regional demand and estimation of expected daily clients.
- A statement regarding security and operational management of the service/facility including hours of operation.
- Assessment of the impact on the public realm and quality environment

5.2. Natural Heritage Designations

5.2.1. There are no designated sites in proximity to the appeal site.

6.0 EIA Screening

6.1.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. A first party appeal of the decision by the Planning Authority to refuse permission was submitted by an agent for the applicant. The grounds of the appeal can be summarised as follows:

- The proposal accords with the proper planning and sustainable development of the area and permission should be granted in this instance. The applicant does not accept the rationale provide for the refusal.
- Condition no. 2 is unnecessary. The applicant fully understands the requirement to obtain planning permission for any future change of use.
- Works undertaken as per the permitted development have retained the special architectural character of the building and the use as emergency homeless accommodation will not impact the historic fabric of the protected structure.
- The existing tenants are long-term since 2021, in keeping with the objectives of the area. Long-term residential accommodation does not constitute emergency homeless accommodation.
- The omission of condition no. 2 would therefore not contravene Policy BHA 2(b)(d)(f) or (g).
- The reference to ABP-307064-20 in the previous Inspectors report notes that a homeless hostel falls under Class 9, Part 4 of Schedule 2 of the Regulations. This is defined as “the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose).
- The current residents do not receive any care services on-site and therefore the existing use of the property does not constitute a material change of use and is not in breach of condition no. 2
- The Coimisiún is requested to remove condition no. 2 of ABP-308189-20.

7.2. Planning Authority Response

7.2.1. None on file.

7.3. Observations

7.3.1. Catherine O’Flynn, 111 North Circular Road:

- Previous evidence of breach of planning policy.
- Unauthorised homeless institution, too many residents, residential zone.

- Previous history of fire damage, lack of attic separation a fire risk
- Anti-social behaviour
- Building operating contrary to An Bord Pleanála decision.

8.0 **Assessment**

8.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, having inspected the site, having regard to the relevant policies and guidance, and having regard to the planning history of the site, I consider that the single substantive issue in this appeal is the principle of proposed development.

8.2. **Principle of Proposed Development**

- 8.2.1. The appellant submits that the existing residents have resided in in the building since it was refurbished according to the planning permission (ABP-308189-20) and that this long-term residential accommodation does not constitute emergency homeless accommodation. Noting that the residents do not receive any care on-site, the appellant submits that the existing use of the property is not a breach of condition no. 2 and for these reasons condition no. 2 should be omitted from the permission. It is not clear why condition no. 2 should be removed on this ground – if the current use is not emergency homeless accommodation, the existence of condition no. 2 does not affect the current use.
- 8.2.2. The appeal states that condition no. 2 as currently worded prohibits the applicant from using the property for emergency homeless accommodation. Condition no. 2 of the Boards decision is not a prohibition on the use of the structure for emergency homeless construction (as submitted by the appellant), it is clearly a prohibition unless authorised by a prior grant of planning application (my emphasis). Should the applicant intend to use the structure as emergency homeless accommodation, they can seek permission to do so.
- 8.2.3. By attaching condition no. 2 to the previous decision, the Board sought to have the use of the structure for emergency homeless accommodation considered by way of a separate planning application. The appellant has not indicated why they have not sought / will not seek planning permission for the use of the structure as emergency

homeless accommodation, should they require such a use. I submit that the reasoning behind condition no. 2 is clear, such a material change of use warrants a fresh planning application. The proposal for omission of a condition does not provide for the full and comprehensive consideration as would be raised by a full planning application. For example, an application for use for emergency homeless accommodation would require demonstration of compliance with section 15.13.9 and policy QHSN29 of the Dublin City Council development plan. This section, which refers to hostels / sheltered accommodation and family hubs lists documents which must be provided with applications, such as a map of all homeless and other social support services within a 750m radius of the site, details of catchment area, details of security and operational management of the site and an assessment of the impact on the wider area. No such information has been submitted with the current application.

8.2.4. On that note, I draw the Coimisiúns attention to the wording of the public notices. The Coimisiún may wish to consider that the wording - which refers only to the removal of a condition – does not fully and accurately describe the applicant’s intention to use the structure for a use not currently permitted, namely emergency homeless accommodation. It is considered that the public notices do not accurately draw the public’s notice to the true extent of development proposal.

8.2.5. The appellant states that the use of the building for emergency homeless accommodation will not impact on the historic fabric or special architecture character of the protected structure. It is clear, from the documentation on file and from the decision of the Board under ABP-308189-20 that the Planning Authority *do* consider the use of the structure for emergency homeless accommodation to have an impact on the historic fabric or special architecture character of the protected structure. In their decision to refuse permission for the original application, Dublin City Council referred to the overly intense use of the protected structure and stated that this would have a detrimental impact on its special interest. The CO in their report recommending refusal, stated that long-term residential use was welcomed, noting that long-term tenancies have a tendency to invest in their homes and the wider area. The CO noted the chance of intensification of wear and tear which would result in extensive depreciation of the fabric of the building. I am satisfied that the use of the structure for short-term use, which is a material change of use from long-term

tenancies, should be subject to a full and comprehensive analysis of the impact on the protected structure.

- 8.2.6. The appellant states that they are aware of their requirement to seek permission should the use of the property change. As noted above, condition no. 2 permits the applicant to change the use of the property through the appropriate mechanism. I see no reason for the removal of the condition. I consider the material change of use of the property from that permitted to use for emergency homeless accommodation to be one that warrants consideration by way of planning application.

9.0 **AA Screening**

- 9.1.1. Having regard to the nature and scale of the proposed temporary development, to be retained in a fully serviced built-up urban area, no appropriate assessment issues arise and it is considered that 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.

10.0 **Water Framework Directive**

- 10.1.1. An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive. Accordingly, the proposed development is considered to be compliant with the requirements of Article 4.

11.0 **Recommendation**

I recommend permission be REFUSED for the following reasons and considerations:

- 1 The proposed development has not demonstrated compliance with policy QHSN29 of the Dublin City Council Development Plan 2022-2028 which

seeks to monitor the provision of temporary accommodation and support services. Further, the proposed omission of Condition 2 would give rise to a change of use from long-term to short-term residential use, which is not considered to be compatible with the special architectural character, historic fabric and special interests of the Protected Structure. Therefore, the proposed development would contravene Policy BHA 2 (b),(d),(f) and (g) of the Dublin City Council Development Plan 2022-2028 and would therefore be contrary to the proper planning and sustainable development of the area.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

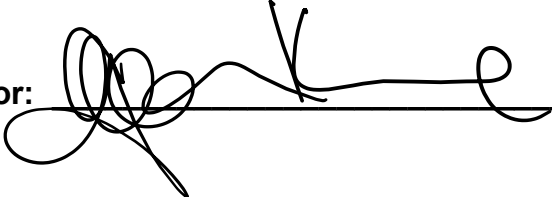


Gillian Kane
Senior Planning Inspector

25 May 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL-500989-DN-26
Proposed Development Summary	Alteration to development previously approved under Reg. Ref. 2926/20/ ABP Ref. 308189-20 comprising the omission of Condition 2 as attached to Reg. Ref. 2926/20/ ABP Ref. 308189-20
Development Address	97 North Circular Road
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	<input type="checkbox"/> Yes, it is a 'Project'. Proceed to Q.2.
	<input checked="" type="checkbox"/> No, No further action required.

Inspector:  _____

Date: 25 May 2026