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## Proposed Policy Measures in relation to Short Term Lettings - an update

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Members will recall that at the December 2018 City Council meeting the following motion was listed:

“This council agrees to vary the City Development plan so as to promote quality housing by the inclusion of the following new policy in Chapter 5 –

*“It is the Policy of Dublin City Council to prevent the loss of lands for long-term residential occupancy and consequently shall not grant planning permission for further short-term occupancy residential units or for change of use from housing to short-term residential lettings during the life of this Development Plan. The rationale for this variation is to prevent the further loss of residential capacity caused by commercial short term housing lets and to address the current over concentration of short terms lettings which are displacing much needed homes.”*

It was agreed that a report on the matter would be included on the agenda for the February City Council meeting.

### **Report**

This motion has been considered in the context of a determination of a Section 5 by An Bord Pleanála, recent circulars from the Department of Housing, Planning, and Local Government (DHPLG) and critically the implementation of such policy in the assessment of current planning applications.

### **Planning Context**

In October 2016, An Bord Pleanála upheld a declaration of the Planning Authority that the use of an entire residential apartment for a series of short term holiday lettings on a year round basis, and in the absence of any occupation by any permanent resident constitutes a change of use. While the declaration is case specific, in light of the determination, it is the interpretation of the City Council that the continued operation of any apartment or residential unit exclusively for commercial short-term letting purposes on a year-round basis is a material change of use and would require planning permission.

### **Planning Policy**

Since the declaration was issued, the DHPLG has issued a number of circulars and is now proposing the introduction of new regulations in respect of short term lettings. These new regulations are expected to come into operation on the 1<sup>st</sup> June 2019. In the interim, Circular Letter PL10/2017, provides guidance for assessing planning applications for short term lettings.

In this respect, there are a number of immediate factors to be taken into consideration when assessing planning applications for short term commercial lets including; whether the proposal is located in an area of high housing demand and/or designated rent pressure zone, the number of persons on the waiting list for social housing, and the concentration of short term letting properties within the area. While these factors are critical in the

assessment of any application, there are other considerations to be taken into account. For instance, the Circular advises that the need to balance the competing demands of the city, including the need to provide additional tourism accommodation as part of the promotion of tourism should also inform the assessment and final decision.

It is also necessary to give appropriate consideration to the quality of residential amenity provided by the existing accommodation, particularly that provided by older apartment schemes, and to determine whether it is better suited for short term lettings. In some cases, especially older residential developments located in or close to the city centre, the level of residential amenity provided can be very poor due to small room sizes, poor aspect and restricted access to adequate daylight, lack of private amenity space, limited or no facilities for bicycle parking or car parking. While such deficiencies may not be a problem for short stay tenants, they will generate an injurious living environment for long stay residents.

It should also be noted that planning applications are received for change of use from non-residential use to short stay commercial lets. In these cases, consideration is given to the suitability of the premises for long stay residential apartments and to the constraints of the site or building. While every support is given to the use of vacant or underused buildings for residential use, in particular under the Living City Initiative, it must be recognised that there will always be buildings which due to local site specific conditions do not lend themselves to adaption to good quality residential apartments.

### **Implementation of Current Policy**

In general, the Planning Authority has not been in the practise of supporting planning applications for the change of use of residential apartments to short stay commercial lets. As a rule, potential applicants or developers are advised of this position when they make a general enquiry or seek a pre-application consultation for a specific site. Furthermore, in the event of making an application for such changes of use, planning permission has generally been refused.

### **Recommendation**

In light of current practise and the wide range of factors to be take into consideration when assessing applications, it is not considered necessary or appropriate to introduce a blanket ban for such changes of use. There are serious concerns that the motion proposed to not grant planning permission in any circumstances is in effect a blanket ban and as such is open to legal challenge. The Development Plan is a policy document and not a decision on an individual planning application. It must be recognised that there will always be a limited number of sites located across the city, where such a change of use may be appropriate pending comprehensive redevelopment of a building or site. In these site specific cases, the quality of existing residential apartments may be compromised to the extent that they fail to provide an acceptable level of residential amenity for long stay residential tenants. Likewise, in certain cases, planning applications for change of use from non-residential to short stay lets may also be supported on the grounds that the premises, notwithstanding any improvement works, would not facilitate the development of good quality residential apartments.

Therefore, the proposal to insert a new policy which effectively introduces a blanket ban "*for a change of use from housing to short-term residential lettings during the life of this Development Plan*" is not supported as it fails to acknowledge the need to balance the competing demands of the city and the sub-standard quality of certain older residential properties.

**Resolution** - "That Dublin City Council notes the contents of Report No 43/2019"

**Richard Shakespeare**  
**Assistant Chief Executive**

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