



## Board Direction

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**Ref: PL29S.243467**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 2<sup>nd</sup> October 2014.

The Board decided to make a split decision, to

(1) grant permission (subject to conditions) for the change of use of the ground floor unit from office to daytime use of retail with ancillary café, together with works to the rear roof space including installation of new roof light and 4 no condenser units, access works (including creation of new street entrance), signage and associated works

based on the reasons and considerations marked (1) under and subject to the conditions set out below, and

(2) refuse permission for the change of use of the ground floor unit from office to night-time live music and cultural performance (licensed) venue

for the reasons and considerations marked (2) under.

In deciding not to accept the Inspector's recommendation to grant the night-time use for a live music and cultural performance (licensed) venue, the Board noted that there was no appeal against this refusal element of the Planning Authority's decision, and therefore, in the circumstances, the Board felt that it was not possible or appropriate for it to consider this aspect of the originally proposed development.

(1) Grant of Permission

### Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2011-2017, and the pattern of development in the area, it is considered that,

subject to compliance with the conditions as amended, the proposed development would not seriously injure the visual amenity or the character and residential amenities of the area, would, therefore, be in accordance with the proper planning and sustainable development of the area.

### CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 17<sup>th</sup> day of April, 2014, 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.

**Reason:** In the interest of clarity.

2. This permission relates to the change of use of the entire ground floor unit of these premises (and not solely the front room of the premises fronting onto Eustace Street) from offices to retail use with ancillary café. Retail use shall be deemed to be use as a “shop” as defined in the Planning and Development Regulations 2001 (as amended). This permission does not authorise any use of the premises as a live music or cultural performance venue at any time. The premises shall not be used at any time as a “takeaway” – i. e. for the sale of hot food for consumption off the premises.

**Reason:** In the interests of clarity, and in order to indicate and delimit the scope of the permitted development.

3. The permitted retail use with ancillary café shall not be open to the public outside of the period 08:00 – 22:00 hours on any day.

**Reason:** In the interests of clarity and in order to protect the residential amenities of the area.

4. (a) A Conservation Architect shall be employed to manage, monitor and implement the works on site and to ensure adequate protection of the historic fabric during the works.  
(b) All works shall be carried out in accordance with best Conservation Practice and the Architectural Heritage Protection Guidelines for Planning Authorities;

(c) All permitted works shall be designed to cause minimum interference to the building structure and/or fabric. Any repair/upgrading works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, historic linings and finishes and the original footprint.

(d) Prior to commencement of the development, site exemplars for brick work cleaning, raking out, brick repair and re-pointing, together with the repair of historic floors and the installation of an appropriate stone floor, shall be agreed in writing with the planning authority, and such works shall thereafter be carried out in accordance with the requirements of the authority.

**Reason:** To ensure that the integrity of the Protected Structure is maintained and that all works are carried out in accordance with best conservation practice.

5. Details including samples of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

6. A window display shall be maintained at all times, and the glazing to the shopfront shall be kept free of all stickers, posters and advertisements.

**Reason:** In the interest of the visual amenities of the area.

7. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the building or within the curtilage of the site, or attached to the glazing, other than the fascia lettering as indicated on the drawings submitted with this application, unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area, and to permit the planning authority to assess the design quality of all future signage and its impact on the character and setting of this protected structure..

8. No additional development shall take place above roof parapet level, including air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, other than those specifically indicated in the drawings submitted with this application, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

9. The developer shall control noise emissions from the premises in accordance with measures which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public health and to protect the residential amenities of the area.

10. Ventilation and extraction shall be in accordance with the requirements of the planning authority of such works.

**Reason:** In the interest of the amenities of the area and to ensure a proper standard of development.

11. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

12. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

13. The construction of the development shall be managed in accordance with 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 and off-site disposal of construction / demolition waste.

**Reason:** In the interests of public safety and residential amenity.

14. 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. This contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

15. The developer shall pay to the planning authority a financial contribution in respect of the Metro North Line 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

(2) Refusal

### **Reasons and Considerations**

It is considered that, as the refusal by the Planning Authority for this element of the originally proposed development was not the subject of a first party appeal, and in the light of the content of the applicant's response to the third party appeal, as submitted to An Bord Pleanala on the 4<sup>th</sup> day of July 2014, wherein it is indicated that the said refusal was accepted by the applicant, it would not be possible or appropriate for the Board to consider this aspect of the originally proposed development.

Board Member: \_\_\_\_\_ Date: 6<sup>th</sup> October 2014  
Philip Jones