

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2010

Dublin City

Planning Register Reference Number: 3586/10

An Bord Pleanála Reference Number: PL 29S.238743

APPEAL by Ace Company Limited care of David Mulcahy Planning Consultants Limited of 67 The Old Mill Race, Athgarvan, County Kildare against the decision made on the 14th day of March, 2011 by Dublin City Council to grant subject to conditions a permission to Sawbridge Limited care of N.J. O’Gorman and Associates Limited of 5 Adelaide Court, Adelaide Road, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Erection of a new restaurant unit at ground floor level and a 2 Screen Cinema extension over, which shall form part of the previously approved 3 Screen Cinema above the adjoining Swan Shopping Centre (Planning Reference 4206/07). It is proposed to demolish the existing Bank Building façade and the roof and walls down to first floor level and the existing pharmacy number 220, to facilitate the construction of a new façade and roof which will accommodate a change of use from Financial Services to a restaurant unit at ground floor level and reinstatement of existing pharmacy unit with extended total area of 85.5 square metres together with 2 Screen Cinema extension at first floor level with total 310 new seats. Access to the Cinema extension shall be from the Lower Rathmines Road with internal access via the existing Swan Shopping Centre Malls, existing lifts and stairs. The lift shall serve from the basement level car parking through to the first floor and existing Cinema Foyer. 310 number car parking spaces are available at basement level with existing vehicular access via Rathmines Road Lower and Castlewood Lane and with egress onto Castlewood Lane. The proposed restaurant unit at ground floor level will be accessible from street level on the Rathmines Road Lower. It is also proposed to relocate the external escape stair number 5 from the previously granted planning permission into the rear of the existing Bank Building. The total area of the proposed ground floor restaurant unit is 219.5 square metres, the reinstated pharmacy is 85.5 square metres, and the total area of the proposed first floor extension to the cinema will be 563.5 square metres. The site is bounded by Rathmines Road Lower, Castlewood Lane and Castlewood Avenue, all at Swan Shopping Centre, on the site of number 220-228 Lower Rathmines Road, Rathmines, Dublin.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the commercial zoning in the Dublin City Development Plan, 2011-2017 and to the existing uses on the site, it is considered that the proposed infill development, which is located alongside a major thoroughfare in a Key District Centre location, would represent a significant upgrade of the streetscape at this location which, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area and would be acceptable in terms of impact on property in the vicinity. The proposed development 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 particulars submitted on the 18th day of February, 2011, 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. (a) Details of the materials, colours and textures of all external finishes to the proposed development shall be agreed in writing with the planning authority including proposals lodged with additional information response received on the 18th day of February, 2011 concerning lighting and design of side elevation/passageway.
- (b) The pitched roof shall be finished in natural slate.

Reason: In the interest of visual amenity.

3. 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.

4. Prior to commencement of development, detailed proposals for ducting, venting and extraction of odour emissions from the proposed restaurant/kitchen areas shall be submitted and agreed with the planning authority.

Reason: In the interest of order development and public health.

5. Security shutters, if required, shall be located behind the window display areas and shall be of a lattice transparent type in a colour similar to window frames.

Reason: In the interest of visual amenity.

6. No sign or advertisement shall be erected or displayed within the curtilage of the site without a prior grant of planning permission.

Reason: In the interest of visual amenity.

7. During the construction and demolition phases, the proposed development shall comply with British Standard 5228 Noise Control on Construction and Open sites, Part 1: Code of Practice for Basic Information and Procedures for Noise and Vibration Control.

Reason: In the interest of orderly development.

8. No additional development shall take place above roof level, including air handling equipment, storage tanks, ducts or any other external plant, unless authorised by a prior grant of planning permission.

Reason: In the interest of visual amenity and clarity.

9. Construction on site shall be limited to between 0700 hours and 1800 hours Monday to Friday and between 0800 hours and 1400 hours on Saturday. No work shall take place on Sundays and Bank or Public Holidays.

Reason: In the interest or clarity and orderly development.

10. The restaurant use hereby approved shall not be used as a takeaway or for the sale of hot food for consumption off the premises other than where such use is clearly subsidiary to the main use as a restaurant and shall not provide a home delivery service.

Reason: In order to safeguard the residential amenities of the area.

11. 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 visual amenity.

12. All waste matter shall be stored in such a manner so as to reduce the impact of fumes/smell on the adjoining properties. The storage of bins and waste shall be in covered contains within the rear yard.

Reason: To protect the amenities of adjoining premises.

13. 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. 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 Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2011.