



An
Bord
Pleanála

Inspector's Report ABP305564-19

Development

Retention of Planning Permission for:

- (i) Change of use from shop to restaurant including associated signage and shopfront.
- (ii) Retention of 2 no. 20 foot shipping containers in place of original sheds together with ancillary works.
- (iii) Permission for relocation and replacement of chimney flue, alterations to front boundary and alterations to internal layout of building including new access onto Ringsend Road.

Location

95 Ringsend Road, Dublin 4.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

3497/19.

Applicant

Basil Whelan.

Type of Application

Permission and Retention of Permission.

Planning Authority Decision

Refuse.

Type of Appeal	First Party -v- Refusal.
Appellant	Basil Whelan.
Observers	None.
Date of Site Inspection	9 th December, 2019.
Inspector	Paul Caprani.

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1.0 Introduction

ABP 305564-19 relates to a first party appeal against the decision of Dublin City Council to issue notification to refuse planning permission for retention for a change of use from shop to restaurant and internal alterations to a building at No. 95 Ringsend Road, Dublin 4 and the retention of 2 no. 20 foot shipping containers in place of original sheds and stores together with open seating area with canopy to the front of the building. Permission is also sought for the relocation and replacement of the chimney flue and alterations to the front boundary treatment. Dublin City Council issued notification to refuse planning permission on the basis that the retention of the restaurant use together with the outdoor seating area and ventilation system, having regard to its proximity to adjoining residential properties, would by reason of noise and general disturbance, injure the amenities of property in the vicinity and would conflict with the Z2 zoning objectives governing the site.

2.0 Site Location and Description

- 2.1. The subject site is located on the southern side of the Ringsend Road at its intersection with the South Lotts Road in the south-east Inner City; approximately 2 kilometres from the city centre. The corner site accommodates an end of terrace two-storey late artisan-type dwelling which was originally under residential use. In more recent years the ground floor has accommodated a commercial (retail) use with residential accommodation overhead at first floor level and within the attic space of the building. The site also incorporates a large side garden contiguous to South Lotts Road and a front garden which is currently used as outdoor seating accommodation associated with the present ground-floor use as a restaurant.
- 2.2. The main building at ground floor level accommodates a restaurant area to the front and toilets and staff area to the rear with a small yard which backs onto No. 2 Hastings Street, and exclusively residential street to the south. The side garden of the site has been developed with the incorporation of 2 no. 20 foot containers which are used as a food preparation area/kitchen together with covered seating. An additional open seating area with overhead canopy is located between the two no.

20 foot containers areas and the main building. The containers are not visible from vantage points along the public road. A covered bin storage area is located at the north-eastern corner of the site. The buildings immediately adjacent to the subject site facing onto Ringsend Road are all in residential use. The predominant use in the wider area is a mixture of commercial with large scale office development on the opposite side of the Ringsend Road and on the two imposing corner sites at the Ringsend Road/South Lotts junction, and residential development in the form of rows of terraced artisan dwellings constructed in the late 19th century..

3.0 Proposed Development

3.1. Retention of planning permission is sought for the following:

- Change of use from shop to restaurant including alterations to the signage and shopfront at ground floor level (see photo's attached of the shopfront to be retained).
- The retention of two 20 foot shipping containers (6.1 metres by 2.44 metres) within the side garden in place of the original sheds and storage areas.
- Retention of rear store, toilet area and staff area in the rear of the existing building.
- Retention of open seating area with overhead canopy and bin store are the north-eastern corner of the site.

3.2. Planning permission is sought for the following

- Relocation and replacement of the chimney flue which currently rises to a height of 8.3 metres and protrudes from one of the containers to the rear of the site. The flue is to be extended across the rear garden and is to protrude upwards at the south-eastern corner of the main building on site.
- Planning permission is also sought for internal alterations within the existing buildings including the relocation of the stairwell from its existing position along the eastern side of the building to the western side and to the front of the building to create a new door onto Ringsend Road. The new door will provide access to a first floor landing, bathroom and bedroom and into a new kitchen area and living room within the attic space.

4.0 Planning Authority's Decision

4.1. Decision

Planning permission and retention of planning permission was refused for a single reason which is set out below.

'The retention of the restaurant use and associated development, including the outdoor seating area and ventilation system, and its proximity to adjoining residential properties, would be reason of noise, general disturbance, seriously injure the amenities of property in the vicinity and would be in conflict with the Z2 zoning objective which applies to this site and neighbouring houses and would be contrary to the provisions of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.'

4.2. Documentation Submitted with the Planning Application

- 4.2.1. A planning report was submitted by AKM Design which sets out details of the site location, the relevant planning history and Development Plan policy as it relates to the proposed development. Section 2 of the Report sets out an assessment of the proposal making reference to the revised proposal, which it is argued, addresses the reason for refusal under Reg. Ref. 2360/18 (please see section on planning history below). The report also details the restaurant use and chimney and ventilation system. Details of the boundary treatment and the alterations to the existing dwelling together with details of parking, drainage, waste and noise issues are also set out. Finally, it is requested that the Planning Authority consider granting planning permission even on a temporary basis for the proposal.
- 4.2.2. The report concludes that the proposal will have no adverse impact on the amenity of the local area and the relocation and replacement of the chimney would have no adverse impact on the character of the local area. Furthermore it is stated that the proposal would generally be in accordance with the policies and provisions contained in the development plan and therefore permission should be granted for the proposed development.

4.3. Planning Authority's Assessment

- 4.3.1. A report from the Drainage Division stated that there is no objection to the proposal subject to the developer complying with the Greater Dublin Regional Code of Practice for Drainage Works.
- 4.3.2. A number of letters of objection were submitted to the Planning Authority in respect of the application raising concerns in relation to general noise and disturbance and air pollution arising from the existing chimney flue. I note however that there is a letter of support for the proposal from the occupant of the adjoining premises at No. 93 Ringsend Road. Also submitted are a number of letters in support of the proposal primarily from businesses in the area.
- 4.3.3. The planning report notes that the restaurant use has expanded incrementally and on foot of this, the retention permission seeks a number of other developments which have been carried out on site including the alterations to the shopfront, the installation of two shipping containers and other associated works. It is noted that it is proposed to upgrade the chimney and ventilation system and fix the flue to the rear wall of the property approximately 1.5 metres above eaves level. It is acknowledged that the site could be described as a transitional zone bounded by commercial development to the north and east. The objections to the proposed development from residents living in close proximity as well as the letters of support from local businesses are acknowledged. It is noted that there are no specific or detailed designs in respect of the flue and ventilation mitigation measures proposed.
- 4.3.4. The report goes on to argue having regard to the history of the site, and the scale of the use within the context of the adjoining residential development, that the overall impact of the proposal on the amenity of nearby residents must be taken into account. It is considered that the restaurant use has resulted in undue negative impacts on the amenities of nearby residents. A restaurant use of a smaller scale may be more appropriate on the subject site.
- 4.3.5. The residential element is considered to be below normal residential standards. However, it is considered that such residential standards may be relaxed in order to secure residential use on the upper floors of the building.
- 4.3.6. It is proposed to remove the existing boundary panels along the front boundary and replace same with metal louvred panels measuring approximately 2.3 metres high

with glass infill panels on the upper level. This is not considered to be suitable from boundary treatment. In terms of parking and access it is considered overall that parking in the vicinity of the site is sufficient to serve the restaurant use.

- 4.3.7. In relation to appropriate assessment, the applicant has not provided a report to assist with the screening for appropriate assessment and the applicant should be requested to address this. In conclusion, it is considered that planning permission should be refused for the reasons set out above by the Planning Authority.

5.0 Planning History

- 5.1. Details of one application is attached in a pouch to the rear of the file. Under Reg. Ref. 2360/19 Dublin City Council refused planning permission and retention of planning permission for the development currently before the Board. Permission was refused on 24th April, 2019 for the following reason.

1. The retention of the restaurant use and associated development, including the outdoor seating area and ventilation system and its proximity to adjoining residential properties would by reason of noise and general disturbance, seriously injure the amenities of property in the vicinity and be in conflict with the Z2 zoning objective which applies to this site and neighbouring houses and would be contrary to the provisions of the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

6.0 Grounds of Appeal

- 6.1. The decision of Dublin City Council was the subject of a first party appeal by AKM Design Limited. The grounds of appeal are summarised below:
- 6.2. The grounds of appeal sets out details of the proposed development, the site description and notes that the subject site is zoned Z2 “to protect and/or improve the amenity of residential conservation areas”. Details of the zoning objectives for the lands surrounding the site are also set out. It is noted that major activity throughout the week takes place at the nearby Shelbourne Dog Track to the south-east. The Board are requested to concur that the site is located in a busy docklands area which could be described as a ‘transitional zone’.

- 6.3. Details of the planning history relating to the site are also set out and the observations submitted to the Planning Authority both for and against the decision are referred in the grounds of appeal. The appeal then goes on to detail Dublin City Council's assessment of the current application. It is argued that the proposed development contributes to the character of the area in that it is visually innovative using shipping containers which fully reflect the industrial heritage of the area. In this regard it is considered that the proposed development accords with Policy CHC 4 of the City Development Plan and with the more general conservation zoning objectives relating to the site. The applicant's family have traded at this location for decades firstly as a retail convenience store and then as an artisan pizza café. The proposal is fully in accordance with Policy CEE18(iv) in providing local employment and increasing the attractiveness of the area for workers, residents and visitors.
- 6.4. It is argued that the subject building on site has maintained the scale, density and overall design and is generally consistent with neighbouring residential buildings. It also provides an appropriate transition between the residential area to the south and west and the larger scale commercial development to the north and east. It is noted that the planner's report concludes that the restaurant use is acceptable in principle and the appellant further argues that the current application contributes positively to the level of activity and animation on the street. The appellant hopes that the Board agree that the boundary proposals make a positive impact on the visual appearance of the property. The Board are also requested to accept that the existing dwelling has always occupied the upper floors of the building and cannot be extended.
- 6.5. There are numerous mechanical ventilation systems in similar commercial properties throughout the city centre and the applicant is proposing a bespoke mechanical ventilation system to ensure the pizza cooking oven is adequately served. The applicant only burns approved sustainably sourced timber fuel which is close to neutral in terms of carbon emission.
- 6.6. In terms of parking there is an abundance of pay and display parking in the area.
- 6.7. With regard to noise impact, it is argued that background and ambient noise levels in the area are relatively high and can mainly be attributed to traffic levels along the Ringsend/South Lotts Road. Reference is made to the strategic noise mapping

which was undertaken by Dublin City Council which indicate that traffic levels at the site were in the range of 70 – 74 dB(A).

- 6.8. In addition, the applicant commissioned his own noise survey. The noise survey concluded that there was no significant noise attributable to the operation of the restaurant. The noise report also recommends that a series of mitigation measures be put in place so as to keep noise to an absolute minimum. Also enclosed are plans showing details of the new roof proposed over the open seating area. This will have a major positive noise reducing impact on the restaurant.
- 6.9. It is proposed to relocate and reroute the chimney and to completely upgrade the specifications of the ventilation system. The upgraded chimney and ventilation system will include noise attenuating baffles on the exterior outlet that will reduce any adverse impact on nearby property. The proposed ventilation system will include an open canopy incorporating grease filters, odour control and an IDRO scrubber to reduce soot and particles. Details of the proposed system are contained on file.
- 6.10. With regard to waste management, the appellant accepts the collection of waste was not carried out appropriately on some occasions in the past. The applicant shall operate the restaurant in strict compliance with a waste management plan details of which are set out in the grounds of appeal. Details of the storage of waste, separation at source of waste and presentation of waste for collection is set out in the appeal submission.
- 6.11. Finally, the grounds of appeal set out details of relevant planning precedent where planning permission has been granted for a restaurant use in city centre sites which could be used as a basis for granting planning permission in the current application and appeal. Specifically, reference is made to PL29S.235955 where An Bord Pleanála upheld the decision of the Planning Authority and granted planning permission for a change of use from existing ground floor shop to a restaurant at No. 58 Grand Canal Street Upper, Dublin 4.
- 6.12. Reference is also made to An Bord Pleanála Ref. 300744-18 where permission was sought for continuation of a change of use from butcher shop and retail to café and restaurant at No. 25A Bath Street, Dublin 4. While the Board refused planning permission for the continuation of the use of the premises as a restaurant (beyond the original 3-year licence permission) the Inspector recommended a grant of

planning permission. The Board overturned the Inspector's recommendation but only on the basis of the deficiency in the public notices in the inadequate description of the nature and extent of the development and not because it was considered to injure the amenity of adjoining residents.

7.0 Appeal Responses

It appears that Dublin City Council did not submit a response to the grounds of appeal.

8.0 Development Plan Provision

8.1. Dublin City Development Plan 2016-2022

8.1.1. The subject site is governed by the zoning objective Z2 which seeks to protect and/or improve the amenities of residential conservation areas.

8.1.2. Policy CHC4 seeks to manage development in Conservation Areas as follows:

Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting wherever possible.

Enhancement opportunities include:

- Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.
- Reinstatement of missing architectural detail or other important features.
- Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns.
- Contemporary architecture of exceptional design quality, which is in harmony with the conservation area.
- The repair and retention of shop and pub fronts of architectural interest.

8.1.3. Development will not:

- Harm building spaces, original street patterns or other features which contribute positively to the special interest of the conservation area.

- Involve the loss of traditional historic or important building forms, features and detail including roofscapes, shopfront doors, windows and other decorative details.
- Introduce design details and materials such as uPVC, aluminium and inappropriately design or dimensioned timber windows and doors.
- Harm the setting of a Conservation Area.
- Constitute a visually intrusive or dominant form.

8.1.4. Policy CEE18(v) of the Development Plan states the following “to recognise the major economic potential of the café/restaurant sectors, including as an employment generator making the city more attractive for workers, residents and visitors: providing informal work and business meeting spaces: to be part of the city’s innovation eco-system: and to encourage the provision of new cafés and restaurants including one category two retail streets”.

8.1.5. Section 14.7 of the Development Plan sets out guidance for transitional zoned areas. In dealing with development proposals in these contiguous transitional zoned areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones. For instance, in zones abutting residential areas or abutting residential development within predominantly mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals and to landscaping and screening proposals in order to protect the amenities of residential properties.

8.1.6. Section 16.29 of the Dublin City Development Plan sets out policy guidance for restaurants as follows:

The positive contribution of café and restaurant uses and the clusters of such uses to the vitality of the city is recognised in considering applications for restaurants the following will be taken into consideration.

- The effective noise, general disturbance, hours of operation and fumes on the amenities of nearby residents.
- Traffic considerations.
- Waste storage facilities.

- The number and frequency of restaurants and other retail services in the area.
- Then need to safeguard the vitality and viability of shopping areas in the city and to maintain a suitable mix of retail uses.

8.1.7. Section 9.5.8 of the Plan relates to noise pollution. It seeks to minimise the impact of noise pollution by controlling developments which are noise sensitive, away from more sensitive areas such as residential areas. If a proposed development is likely to create disturbance due to noise, a condition can be imposed limiting the hours of operation and the level of noise generation.

8.2. **Natural Heritage Designations**

8.2.1. The site is located 1.5 kilometres north-west of the edge of the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC.

9.0 **EIA Screening Assessment**

The proposed development does not constitute a class of development for which EIA is required.

10.0 **Planning Assessment**

I have read the entire contents of the file, have had particular regard to the Planning Authority's sole reason for refusal and the grounds of the first party appeal. I have also visited the subject site and its surroundings. I consider the pertinent issue in determining the current application before the Board is as follows:

- Compatibility with Z2 Zoning Objective
- Impact on Amenity
- Precedent Decisions
- Other Issues

10.1. **Compatibility with Z2 Zoning Objective**

10.1.1. Restaurant use is a use which is open to consideration under the Land Use Zoning Objective Z2.

10.1.2. The grounds of appeal argue that the proposed development will contribute significantly to the vitality and vibrancy of the area and make a positive contribution to the Z2 zoning objective. The development plan highlights the fact that residential Conservation Areas comprise of extensive groups of buildings and associated open spaces with an attractive quality of architectural design and scale. The development plan highlights the need for special care in dealing with development proposals that affect structures in such areas both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works which would have a negative impact on the amenity or the architectural quality of the area. The key consideration which the Board must determine in my view is whether or not the proposed restaurant for which retention of planning permission is sought contributes positively to the protection and enhancement of the historic architectural quality of the area.

10.1.3. It is clear that a commercial use on this corner site has long been established. In more recent times an unauthorised change of use has taken place from convenience store to restaurant. It is my considered opinion that a small restaurant within the confines of the existing building would constitute a compatible use with the established commercial activity on site. However, the incorporation of large-scale outdoor seating together with 2 no. 20 foot long shipping containers (although it is acknowledged that the containers in question are not readily visible from the streets surrounding the site) and the insertion of an 8.3 metre high metal flue would have an adverse impact on the intrinsic historic architectural quality of the block of artisan type dwellinghouses along the southern side of Ringsend Road. The provision of artificial grass, wooden hoardings and outdoor umbrella's does not contribute in a positive way to the to the historic terrace of dwellings which attracts the Z2 zoning objective. While I would agree with the appellant that the incorporation of such a use may contribute positively to the vibrancy and vitality of the area generally, it does not necessarily translate that the proposal contributes positively to the character of the area in architectural conservation terms. Even the proposed changes in boundary treatment proposed under the current application would not adequately address this issue in my view.

10.1.4. A key element in my opinion in assessing whether or not the proposal contributes to the character of the Conservation Area is whether or not the proposal enhances the

special interest of the historic character of the area in including “the reinstatement of missing architectural detail or other important features and the repair and retention of shop and pub fronts of architectural interest” as required by Policy CHC4. This policy also seeks to prohibit development that would not involve the loss of traditional historic or important building forms, features or detailing. The new elements introduced as part of the restaurant area including the elements referred to and the extensive hoarding around the front and side garden would not in my opinion respect or protect the historic residential character of the streetscape and I would therefore agree with the Planning Authority that the proposal would conflict with the Z2 zoning objective associated with the site and its surroundings.

10.1.5. Finally, in relation to this matter, if the Board are minded to grant planning permission for the proposed development it should in my view consider requesting further detailed drawings in respect of the proposed new roof to be incorporated above the outdoor seating area so as the proposal can be adequately assessed from a visual perspective having particular regard to the site’s location within a residential conservation area. There are inadequate drawings and specifications of the new roof contained on file.

10.2. **Impact on Amenity**

10.2.1. It appears from the contents of the file, and in particular the observations submitted to the Planning Authority, that two significant issues arise in relation to amenity namely air pollution and noise pollution. It is proposed as part of the development to relocate the flue from its existing standalone position to a location adjacent to the south-eastern corner of the existing building. It is proposed to incorporate a full replacement chimney system and associated mechanical works. The grounds of appeal states that the replacement chimney comprises of a twin insulated stainless steel chimney system to include noise attenuation baffles and the incorporation of a scrubber to reduce soot and particulate matter being discharged through the flue. Technical details of the proposed chimney and ventilation system are submitted with the grounds of appeal. I consider that the incorporation of a new flue and ventilation system incorporating a noise baffle and a scrubber system which, according to the grounds of appeal, is in accordance with the Building Regulations would represent a significant improvement and should allay the concerns of third parties with regard to air pollution. In my opinion an appropriate condition could be attached, as suggested

in the grounds of appeal, requiring that any ventilation system be appropriately designed and agreed with the Planning Authority in consultation with Dublin City Council's Environmental Health Officer.

10.2.2. However, in my view the noise impact arising from the proposed development maybe more problematic. I acknowledge that the applicant has submitted a separate noise report assessing the impact of the proposed restaurant on the amenities of the area. The report attributes much of the existing ambient noise to traffic associated with the Ringsend Road. It is acknowledged that the Ringsend Road (R802) is a heavily trafficked distributor road linking the Ringsend/Irishtown/Sandymount area with the city centre. The fact that Dublin Bus operate a large bus depot in the vicinity of the subject site would also contribute to noise levels.

10.2.3. Notwithstanding this, the existing restaurant incorporates a relatively large outdoor seating area both covered and uncovered. It is clear from inspecting the site that much of the covered outdoor seating area appears not to be well insulated or attenuated in terms of noise propagation and would in my view give rise to significant noise generation particularly during the night time period when the restaurant is likely to be most busy. The applicant as per the noise report recommends that a number of mitigation measures be incorporated to attenuate noise levels including controlling music amplification to outdoor areas, appropriate management of bottle disposal on site and requesting that customers would leave and disperse quietly at closing time. It is also recommended that the open seating area would be suitably roofed so as to mitigate against airborne sound propagation. It is proposed that the existing retractable canopy over the open seating area would be replaced by a new soundproofed roof. The incorporation of such a roof while attenuating noise propagation to a material extent may further in my view detract from the visual amenities of the area and the architectural quality associated with the conservation zone. This aspect of the proposal is difficult to assess in the absence of detailed drawings and specifications.

10.2.4. The southern side of the Ringsend Road and the adjoining Hastings Street is exclusively residential in nature and it is important that any future development in the area does not detract to a material extent from the existing amenities of the residential area. The provision of such a large-scale outdoor seating area in such

close proximity to adjoining residential areas is in my view problematic in terms of protecting residential amenities.

10.2.5. In terms of waste management, I am generally satisfied that the measures and protocols set out in the grounds of appeal would be satisfactory in addressing any concerns with regard to waste. If the Board are minded granting planning permission for the proposed development, I recommend that a detailed and comprehensive waste management condition form part of any grant of planning permission.

10.3. **Precedent Decisions**

10.3.1. The grounds of appeal place considerable emphasis on planning precedents where the Board granted planning permission for similar restaurant type uses within residential areas. The Board will however note that precedents referred to relate to different sites in the wider area and do not relate specifically to the subject site or its immediate surrounds. The sites referred to are 25A Bath Road and 58 Grand Canal Street Upper and were determined on the planning merits of the individual sites in question which are not the same as the current site before the Board. Firstly, neither application referred to, attracted a Residential Conservation zoning objective. In the case of 58 Grand Canal Street Upper the site was located within an area governed by the zoning objective Z3 which seeks to provide for and improve neighbourhood facilities. In the case of No. 25A Bath Road was governed by the Z1 residential zoning objective. Furthermore, in the case of 58 Grand Canal Street, An Bord Pleanála upheld the decision of Dublin City Council to grant planning permission whereas in the current instance Dublin City Council refused planning permission. In the case of 25A Bath Street it is acknowledged that the Board refused planning permission for procedural reasons, but this does not in my view necessarily imply that they were satisfied that the proposal would not give rise to amenity problems notwithstanding the Inspector's recommendations. While the Board refused planning permission on procedural grounds, it is not clear whether or not the Board had any concerns on amenity grounds.

10.3.2. On the above basis I do not consider that any planning precedents associated with similar type developments in the wider area are useful in informing the Board's decision in respect of the current application before it.

10.3.3. Arising from my assessment above therefore I consider that the retention of the proposed change of use is problematic and inappropriate in amenity terms as the proposed restaurant use, particularly the outdoor seating area, will give rise to disturbance and amenity problems for adjoining residential dwellings and will also detract from the architectural quality of the area which has attracted the Z2 zoning objective.

10.4. **Other Issues**

10.4.1. Planning permission is also sought for the removal of the painted timber panels to the front boundary and the replacement of the boundary treatment with flower boxes. These alterations are sought as part of the overall retention of the restaurant area and for this reason the permission sought for this element of the development should be refused for the reasons associated with the retention of the restaurant use.

10.4.2. Alterations are also sought for the internal layout including the repositioning of internal stairs and new access door to Ringsend Road. I would generally agree with the statement set out in the Local Authority's planner's report that although the proposed unit would be below normal residential standards, and would have lower levels of daylighting than would generally be required in the case of a new build, the fact that the proposal seeks to secure residential use on the upper floor of the building at a time when an increase in residential accommodation is sought within the city generally, together with the historic and architectural constraints associated with the existing artisan dwelling on site, I consider that the Board should grant planning permission for this element of the proposed development.

11.0 **Appropriate Assessment**

The planner's report notes that the applicant has not provided a report to assist with the screenings for appropriate assessment particularly in terms of the impact of the potential emissions on the environment. The report goes on to suggest that the applicant be requested to address this issue. The grounds of appeal state that the subject site is located c.4 kilometres from the nearest SPA and SAC. The site is in fact located only c.1.5 kilometres from the nearest Natura 2000 sites; namely South Dublin Bay SAC (Site Code: 000210) and South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024). However, the subject development for which retention is

sought is connected to the mains water and sewage supply. Retention of planning permission is sought in this instance and any internal works associated with No. 95 Ringsend Road for which planning permission is sought will be minor in nature and will not give rise to any significant impacts during the construction phase. Therefore, having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

12.0 Conclusion and Recommendation

In conclusion therefore, I consider that the size and scale of the restaurant for which retention of planning permission is sought is excessive in the context of the Z2 land use zoning objective, and furthermore because of its potential to impact on the residential amenities of the area through general noise and disturbances particularly associated with the outdoor seating area. A smaller scale restaurant, primarily within the confines of the existing building with perhaps a smaller outdoor seating area may be more acceptable. On this basis I recommend that the Board uphold the decision of the Planning Authority and refuse retention of planning permission for the retention of the restaurant and all associated works. The Board if it considers it appropriate could and should in my view, issue a split decision and grant planning permission for the proposed internal alterations for the residential element of the proposed scheme.

13.0 Decision

(a) Refuse retention of planning permission for the change of use from shop to restaurant including associated alterations, signage and shopfront at ground level and the retention of 2 no. 20 foot shipping containers in place of original sheds and associated works including open seated area with canopy and bin store and (b) refuse planning permission sought for the relocation and replacement of the chimney flue and the removal of painted timber panels to the front boundary and the

replacement with flower boxes based on the reasons and considerations set out below.

14.0 Reasons and Considerations

1. It is considered that the retention of the restaurant use and associated development including the outdoor seating area would by virtue of its proximity to adjoining residential properties give rise to unacceptable levels of noise and general disturbance and would seriously injure the amenities of property in the vicinity, the proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. It is considered that the design and layout of the restaurant use at No. 95 Ringsend Road would be in conflict with the land use zoning objective which applies to the site which seeks to protect and/or improve the amenities of Residential Conservation Areas. It is considered that the works undertaken on site would have a negative impact on the amenity and architectural quality of the area and would therefore be contrary to the proper planning and sustainable development of the area.

15.0 Decision

Grant planning permission for the alterations to the internal layout including the repositioning of internal stairs and a new access door on the front elevation of No. 95 Ringsend Road based on the reasons and considerations set out below.

16.0 Reasons and Considerations

It is considered that the internal and external alterations sought to No. 95 Ringsend Road would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

17.0 Conditions

1. The development shall be carried out and completed 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 the 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. Details of all external finishes shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements including the attenuation of surface water shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

4. The applicant or developer shall enter into a water and/or wastewater connection agreement with Irish Water prior to commencement of development.

Reason: In the interest of orderly development.

Paul Caprani,
Senior Planning Inspector.

18th December, 2019.