



An
Bord
Pleanála

Board Direction
ABP-302714-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/03/2019.

The Board decided, as set out in the following Order, that

Board Order as follows:-

WHEREAS a question has arisen as to whether the use of existing auditorium bar within the Button Factory, under provision of a 7-day publicans licence instead of the existing publicans licence (ordinary) theatre type licence that will continue to apply to the rest of the building is or is not development or is or is not exempted development:

AND WHEREAS NOTTUB Limited requested a declaration on this question from Dublin City Council and the Council issued a declaration on the 10th day of September 2018 stating that the matter was development and was not exempted development:

AND WHEREAS referred this declaration for review to An Bord Pleanála on the 8th day of October 2018:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000, as amended
- (c) Section 4 of the Planning and Development Act, 2000, as amended,
- (d) Article 5(1), Article 6(1) and Article 10 of the Planning and Development Regulations, 2001, as amended,
- (e) Parts 1 and 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (f) the planning history of the site,
- (g) the pattern of development in the area:
- (h) the submissions on file and
- (i) the report of the Inspector

AND WHEREAS an Bord Pleanála has concluded that:

- a) the permitted use of the subject premises is as set out in the Planning Permission Register Reference Number 1661/92, which was for

“a 4 storey over basement music centre including auditorium, backstage facilities, foyer, offices, music rehearsal/experimental facilities, 3 shop units and ancillary accommodation with frontage onto new curved street, change of use and conversion of no 11 Temple Lane South including minor changes to listed Temple Lane South elevation and new roof, and retention of listed façade of no 10/10A, including minor changes to elevation”.
- b) The area within the overall premises that is the subject of this referral, that is the auditorium bar, has not been proven by the referrer to be in accordance with the planning permission
- c) an additional use, that being a public house, would be introduced for part

of the premises arising from a publican's seven day licence, in lieu of a publican's licence (ordinary) theatre, which is not an incidental use to the main permitted use as a music centre;

- d) the public house use would be materially different from the permitted uses by reason of changes to opening hours and trading patterns, likely impacts on neighbouring residential amenity, thus constituting development within the meaning of the Planning and Development Act 2000, and
- e) there is no provision for exemption for change of use from music centre to public house under the exempted development provisions of the Planning and Development Act or the Planning and Development Regulations:

NOW THEREFORE an Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the use of existing auditorium bar within the Button Factory, under provision of a 7-day publicans licence instead of the existing publicans licence (ordinary) theatre type licence that will continue to apply to the rest of the building is development and is not exempted development.

Board Member:

Date: 15/03/2019

Terry Ó Niadh