

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dublin City

Planning Register Reference Number: 3915/15

An Bord Pleanála Reference Number: PL 29S.246040

APPEAL by Morgan Crowe and Bríd Large care of O'Connor Whelan of 222-224 Harolds Cross Road, Dublin against the decision made on the 17th day of December, 2015 by Dublin City Council to refuse permission in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Change of use to existing ground floor and basement retail unit to restaurant with take-away with new internal finishes, lighting and layout with reconfiguration and enclosure of existing open rear basement yard area (seven square metres) of unit to provide plant room at basement with new enclosed bin storage (four square metres) with new rear door at ground floor increasing the overall internal area from 97 square metres to 117 square metres, with 59 square metres being private back of house facilities and 58 square metres being public front of house seating/dining area with new internal illuminated signage and new shop front façade all at number 36 Parliament Street, 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 Dublin City Development Plan, 2011-2017 according to which the zoning objective ("Z5 - City Centre") provides for the consolidation and facilitation of the development of the central area, to the location of the site inside a Conservation Area and the central shopping area but not on a designated shopping street and to the existing cluster and mix of restaurants, bars, cafes and hotels in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the vitality and viability of the area, would not seriously injure residential amenity and would 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 to An Bord Pleanála on the 15th day of January, 2016, 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) This grant of planning permission relates strictly to the proposed development described in the public notices.
- (b) The take-away element is to be strictly subsidiary to the restaurant use.

Reason: In the interest of clarity.

3. The shopfront fascia shall be in accordance with the following requirements:
 - (a) Signage shall be confined to the single fascia board using sign writing or hand-painted lettering.
 - (b) Details of any lighting to be provided on the exterior of the premises shall be submitted to the planning authority for written agreement.
 - (c) 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, unless authorised by a further grant of planning permission.
 - (d) No adhesive material shall be affixed to the windows or the shopfront.

Reason: In the interest of visual amenity.

4. No external security shutters shall be erected on any of the commercial premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

Reason: In the interest of visual amenity.

6. The hours of operation shall be between 0700 and 2300 hours Monday to Saturday inclusive and between 0700 hours and 2200 hours on Sundays and Bank Holidays.

Reason: In the interest of residential amenity.

7. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at any point along the boundary of the site shall not exceed:-
- (i) An L_{AeqT} value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. [The T value shall be one hour.]
 - (ii) An L_{AeqT} value of 45 dB(A) at any other time. [The T value shall be 15 minutes]. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.]

- (b) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with respect of Community Response" as amended by ISO Recommendations R 1996 1 and 2 "Description and Measurement of Environmental Noise" as applicable.

Reason: To protect the residential amenities of property in the vicinity of the site.

8. The developer shall control odour emissions, including extract ducting and ventilation, 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 amenities of the area.

9. 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.

10. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, 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, and for the ongoing operation of these facilities.

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

11. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

12. The developer shall pay to the planning authority a financial contribution in respect of Metro North - Saint Stephen's Green to City Boundary at Ballymun 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

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

Dated this day of 2016.