



An
Bord
Pleanála

**Board Order
PL 29N.248832**

Planning and Development Acts 2000 to 2017

Planning Authority: Dublin City Council

Planning Register Reference Number: 3660/16

Appeal by Brenda Tynan of Cross Patrick, Johnstown, County Kilkenny against the decision made on the 9th day of June, 2017 by Dublin City Council to grant subject to conditions a permission to JD Wetherspoon PLC care of Brock McClure Consultants of 63 York Road, Dún Laoghaire, County Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Refurbishment, alterations and change of use of existing buildings to provide a public restaurant/bar (circa 955 square metres) on the site including outdoor seating areas (circa 143 square metres) and associated ancillary uses with construction of new glazed link to connect both buildings. The overall development will comprise of a gross floor area of circa 1,620 square metres, of which circa 1,527 square metres is accommodated within the existing buildings and circa 93 square metres is a new build glazed link between the two buildings. The refurbished existing buildings incorporating numbers 12b and 12c Abbey Street Lower involves internal reconfiguration and works to include repair and replacement (where necessary) of existing windows and doorframes/entrances and railings to the front. The buildings which are to change to public bar/restaurant use are currently arranged as follows – number 12b Abbey Street Lower (former TSB Bank, now vacant), number 12C Abbey Street Lower (formerly Fellowship Church, now vacant).

A Glazed link is proposed to connect the two buildings at ground and first floor level. On the north-eastern wall of 12b Abbey Street Lower two number existing windows at ground floor level will be widened to provide new interconnections at ground level and two number new openings will provide interconnections at first floor level, both allowing a connection to 12c Abbey Street Lower via the new glazed link. Two main entrances to the bar/lounge area are proposed at the Abbey Street frontage of 12b and 12c respectively. The development involves works and change of use of 12b Abbey Street Lower (previous use as TSB Bank) including staff and ancillary areas at basement level (circa 130 square metres), indoor seating area and bar/servery at ground floor level (circa 397 square metres) and first floor level (circa 372 square metres) and associated annexes to the west side of 12b Abbey Street Lower to accommodate an outdoor beer garden (circa 16 square metres) and ancillary bin store and service areas at ground level and a roof terrace (circa 35 square metres) at first floor level. The works and change of use at number 12c Abbey Street Lower (former Fellowship Baptist Church) include a seating area (circa 241 square metres) and kitchen (circa 74 square metres) at ground floor level, customer toilets and a beer garden (circa 92 square metres) at first floor level with a retractable rooflight above. The new build element is located between the two existing buildings at 12b and 12c Abbey Street Lower. Operational plant will be provided on the flat roof at second floor level. The retractable roof will be on the roof of 12c Abbey Street Lower to provide coverage to the outdoor seating area proposed at first floor level within this building. Access/egress for the purpose of deliveries and servicing will be via Abbey Street and Northumberland Square with no direct vehicular access to the site proposed. Permission is also sought for landscaping, roof plant, and all ancillary and associated site development works, on lands (circa 0.09 hectares) at numbers 12b (a Protected Structure) and 12c Abbey Street Lower, 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 zoning of the site as part of the city centre under objective Z5 of the Dublin City Development Plan 2016-2022, to policy CHC2 of the plan to allow changes in the use of protected structures which are compatible with their conservation, to the measures proposed to limit the emissions of noise and odour, and to the pattern of development in the area it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity of the site, would not detract from the architectural heritage of the city and would be in keeping with the provisions of the development plan. 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 plans and particulars submitted on the 15th day of May 2017, 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. The developer shall comply with the following requirements –
 - (a) No music or any other sound for entertainment shall be amplified in or outside the premises on the site.
 - (b) The retractable element of the roof over the building at number 12c Lower Abbey Street shall be closed between 2300 and 0700 hours.
 - (c) The first floor roof terrace at number 12b Lower Abbey Street shall be closed to patrons between 2300 and 0700 hours.

Reason: To protect the amenities of the area and adjacent properties.

3. The developer shall comply with the following requirements –
 - (a) All of the commitments and noise control measures as outlined in the noise management plan submitted with the application shall be implemented in full.
 - (b) The noise levels from the development, during the operational phase, measured as an LAeq (5 minutes at night, 15 minutes in the day) when all proposed plant is operating, shall not exceed LA90, when no plant is operating, by 5dB(A) or more.
 - (c) Cumulative plant noise levels shall not exceed 39dB LAeq,T at the nearest façade of the Abbey Court Apartments.

Reason: In order to safeguard the amenities of adjoining premises, residential amenity, and the general surroundings.

4. The developer shall comply with the following requirements –
- (a) No emissions, including odours, from any activities carried on in association with the development shall result in an impairment of, or an interference with amenities or the environment beyond the site boundary or any other legitimate uses of the environment beyond the site boundary.
 - (b) A suitable filtration system, details of which shall be submitted to and agreed with the planning authority, shall be installed to neutralise odours prior to their discharge, for example, a carbon filtration system. Such system shall not be located on any part of the exterior of the buildings.

Reason: In order to safeguard the amenities of adjoining premises, residential amenity, and the general surroundings.

5. The developer shall comply with the following conservation requirements of the planning authority –
- (a) A professionally qualified and accredited conservation architect shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and façades structure and/or fabric. The final scope of structural works shall be confirmed in the context of surviving primary fabric by detailed submission to the planning authority, the proposed detail of all new elements (glazed roof, recessed areas, ramps, balconies shall be confirmed in writing prior to construction.
 - (b) All works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” issued by the Department of Arts, Heritage and the Gaeltacht in 2011. Any repair works shall retain the maximum amount of surviving historic

fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement/presentation. New services shall be of minimal intervention (wireless type guided) and shall be installed to avoid adverse impact on surviving significance. New paint finishes shall reference Heritage palette and shall be appropriate to the character of the primary spaces and breathable. Previous historical finishes shall be recorded where they are discovered and used to inform interior schemes where possible.

- (c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings), staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment. The location and installation of all new services shall respond/be considered in the context of the surviving fabric.
- (d) All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric, and reference is made in particular to the replacement windows. Full repair and reinstatement schedules (condition surveys, specifications and methodologies) shall be reviewed with the planning authority and shall be submitted for written agreement prior to commencement to avoid loss or damage to original fabric and ensure that the character of this protected structure is not altered.
- (e) Samples of materials and site exemplars of site workmanship with respect to repairs and restoration to the interior/exterior to be carried out shall be submitted where deemed necessary by the planning authority. Works in relation to fire upgrading of joinery shall be agreed in the context of surviving significance-managed solutions and building control waivers to

be sought/provided to safeguard the architectural heritage. Where doors are to be upgraded for fire the detail to be agreed in writing with the planning authority.

- (f) Confirmation of the basement works to remedy damp ingress shall be confirmed prior to implementation. Thermal upgrading works that specifically remove or alter the ability to regulate moisture or removes/overlays original historic features shall be specifically omitted.
- (g) The restoration of historically detailed windows and joinery throughout shall be confirmed by written submission to the planning authority.
- (h) Exemplars for conservation works to the exterior shall be provided on site and agreed with the planning authority, in particular railings, guards to basement areas, entrance steps, brick and stone cleaning/repairs.

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.

6. 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 buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with the planning authority -
- (a) External lighting.
 - (b) The treatment of the semi-public domain along Abbey Street including any modifications to the hard surfacing or the railings and entrances.

All construction materials and details shall be of high quality, and materials that require a high level of maintenance shall be avoided.

Reason: To protect the character of the area and of the buildings on the site.

8. The authorised bar and restaurant shall not operate outside the following hours:
- Between 0700 and 2330 hours from Monday to Thursday,
 - between 0700 and 0030 hours on Fridays and Saturdays and the day before public holidays, and
 - between 0700 and 2300 hours on Sundays,

without a prior grant of planning permission.

Reason: To protect residential amenity.

9. No take-away use shall operate from the permitted premises.

Reason: In the interest of the proper planning and sustainable development of the area.

10. (a) The construction of the development shall be managed in accordance with a 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 noise management measures, residential notification procedure, project traffic management for all stages of construction traffic and off-site disposal of construction/demolition waste.
- (b) The procedures for noise and vibration control as outlined in BS 5228: Code of Practice for noise and vibration control on construction and open sites Part 1 (BSI 2009) shall be implemented in full.
- (c) Adequate measures shall be taken to maintain the boundary of the development free from dust during the site preparation and construction phase.

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

11. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

12. The developer shall comply with the following requirements:
- (a) The developer shall implement the 'Delivery Plan Briefing Note' document to ensure that no aspect of the proposed development unreasonably interferes with or delays works and operational requirements of Transport Infrastructure Ireland in respect of the construction and operation of the Luas Cross City Line.
 - (b) The developer shall comply with Transport Infrastructure Ireland's code of engineering practice for works on, near or adjacent to the Luas light rail system.

Reason: In the interest of public safety and the operation of the Luas Tram System.

13. Water supply and drainage arrangements, including the attenuation and 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.

14. 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. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

