



An
Bord
Pleanála

Board Order
PL 29S.249126

Planning and Development Acts 2000 to 2017

Planning Authority: Dublin City Council

Planning Register Reference Number: 3150/17

Appeal by Gambetta Limited care of CD Architecture of 4 The Mall, Main Street, Lucan Village, County Dublin against the decision made on the 8th day of August, 2017 by Dublin City Council to refuse permission for the proposed development.

Proposed Development: Planning permission is sought for the following at number 16 Harcourt Street, extension to existing current use as licensed restaurant at basement level and additional use as a café bar, with use extended to external courtyard and external mezzanine level above courtyard level. **Basement:** external works to include the removal of existing planters at the front entrance along Harcourt Street, cleaning and upgrading of front entrance area, installation of new steps over existing steps for ambulant disabled access, together with new handrails, removal works at basement level internally to accommodate one number bar, storage, toilets, cloakroom, seating areas and toilets, demolition of 21st century single storey rear extension to accommodate the construction of toilets, storage area, configuration of new entrance, stairs and platform lift from basement to ground floor external courtyard level. **Ground floor/annex to number 16:** internal removal works at ground floor level to rear of main building to accommodate three number replacement w.c.'s, together with landscaping, seating areas and construction of new

external stairs to first floor terrace and mezzanine floor. **Mezzanine:** new structure to replace existing roof of basement rear extension to accommodate external seating area with access to toilets at ground floor level in main building, planning permission is also sought for the following at number 16 Harcourt Street Mews, change of use from warehouse/storage use to licensed restaurant/café bar, modifications and upgrading works to existing facades. **Basement:** construction of a basement to accommodate a kitchen, keg store, keg hatch, cold store and staff area. **Ground floor:** works to accommodate new stairs to new proposed first floor, new disabled toilet, lobby to courtyard area and café bar seating. **First floor:** construction of new first floor level to accommodate new bar, stairs to ground floor and access to new external terrace facing courtyard area, in addition, planning permission is sought for the following at number 19 Montague Street: change of use from pizzeria to licensed restaurant/café bar, works to also include new shop front configuration along Montague Street and Montague Lane with bifolding doors, shutters, and servery to Montague Street. **Ground floor:** removal works internally to accommodate bar, seating areas and servery. **First floor:** removal works internally to accommodate toilets, storage and seating areas with new flat roof section over female toilets. The proposal also includes new connections between number 16 Mews and number 19 Montague Lane at ground and first floor level. All with associated signage, lighting, landscaping and associated site works. All at number 16 Harcourt Street, Dublin (a protected structure, Dublin City Council RPS Number 3525), Mews to rear of number 16 Harcourt Street facing onto Montague Lane and number 19 Montague 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 location of the site, close to the city centre, and to the pattern of development and uses in the area, to the zoning objectives of the site, namely Z4 and Z8, to the designation of number 16 Harcourt Street as a protected structure and to the objectives of the Dublin City Development Plan 2016 – 2022, the Board considered that the proposed development as a restaurant/café bar was an acceptable use and that the works proposed were sympathetic to the conservation status of the buildings on the site and would result in the regeneration and ongoing vitality of Montague Street and Montague Lane. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the proposed change and extension of use to a restaurant/café bar is an acceptable use for this site, and that its use as a nightclub could be omitted by way of condition.

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 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 bar/restaurant shall not be used as a nightclub and shall only be used between 0800 hours and 2300 hours.

Reason: In the interest of residential amenity

3. (a) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than three dB(A) during the period 0800 to 2300 hours and by more than one dB(A) at any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at LAeq.T.

(b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedance criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.

- (c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either
 - (i) during a temporary shutdown of the specific noise source, or
 - (ii) during a period immediately before or after the specific noise source operates.
- (d) When measuring the specific noise, the time (T) shall be any five-minute period during which the sound emission from the premises is at its maximum level.
- (e) Any measuring instrument shall be precision grade.

Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. An acoustical analysis shall be included with this submission to the planning authority.

Reason: In order to protect the amenities of property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during night-time hours.

4. Site development and building works shall be carried out only between the hours of 0800 to 1900 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 amenities of property in the vicinity.

5. 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 traffic management measures, noise management measures and off-site disposal of construction/demolition waste.

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

6. Prior to commencement of development, the developer shall provide for the following:-
- (a) The appointment of a conservation expert, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.
 - (b) The submission of details of all finishes and of all existing original features to be retained and reused where possible, including interior and exterior fittings/features, joinery, fenestration, plasterwork, features (cornices and ceiling mouldings), roofs, staircases including balusters, handrail and skirting boards.

All repair/restoration works 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. The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

Reason: To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

7. Prior to commencement of development, detailed structural drawings and a construction methodology statement (including the results of detailed structural surveys of the protected structures and all building facades to be retained) indicating the means proposed to ensure the protection of the structural stability and fabric of all these retained structures shall be submitted to, and agreed in writing with, the planning authority. These details shall include demonstrating the methods proposed for any works to existing facades, demolition and excavation arrangements, the proposed foundation system and underpinning, structural bracing and support and method of construction.

Reason: In the interest of preserving the architectural integrity and heritage value of the retained structures.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

9. 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 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 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.

