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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 4638/17**

**Appeal** by Canal Basin Holdings Limited care of Manahan Planners of 38 Dawson Street, Dublin against the decision made on the 23<sup>rd</sup> day of February, 2018 by Dublin City Council to refuse permission to the said Canal Basin Holdings Limited:

**Proposed Development:** Permission is sought to vary a previously approved development (planning register reference number 3015/15) on an existing vacant site. The permission granted involved a mixed use development of a four-storey over basement building comprising one retail unit at ground floor level with retail storage and gym at basement level and office accommodation at Levels 1-3. The development also provided for eight car parking spaces in the rear yard and 28 bicycle parking spaces in the basement. Permission is now sought to relocate the ESB substation from the rear yard to the Lennox Street frontage in line with ESB requirements and to alter the Lennox Street ground floor elevation accordingly. Permission is also sought for a change of use of part of the ground floor previously approved as retail (557 square metres) to licensed restaurant; all at vacant site at corner of Richmond Street South, Dublin and Lennox 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 existing pattern of development in the area, the planning history of the subject site, and the provisions of the Dublin City Development Plan 2016-2022, including the zoning objective Z4, "to provide for and improve mixed-services facilities", and policy RD17 "to promote active uses at street level", it is considered that the change of use from retail to restaurant use, subject to compliance with the conditions set out below, would not seriously injure the residential amenities of the area, would not be prejudicial to public health, would conform to the provisions of the Development Plan and would generally be acceptable in terms of pedestrian and traffic safety.

Furthermore, it is considered that the relocation of the ESB substation to the Lennox Street frontage, subject to compliance with the amendments submitted to An Bord Pleanála as part of the appeal, would not be out of character with its surroundings nor interfere with the setting of nearby protected structures. 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 to the planning authority as amended by the plans and particulars received by An Bord Pleanála on the 22<sup>nd</sup> day of March, 2018, 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 premises hereby permitted (licensed restaurant) shall not operate outside the hours of 0800 to 2300 on any day.

**Reason:** In order to safeguard the amenities of adjoining residential properties.

3. The premises hereby permitted (licensed restaurant) shall not be used for the sale of hot food for consumption off the premises (that is, take-away use), whether or not such use would represent an ancillary use to the principal use as a restaurant.

**Reason:** In the interest of clarity, and in order to safeguard the amenities of adjoining residential properties.

4. The premises hereby permitted (licensed restaurant) shall not be used as a night-club or public house. No live music shall be played within the premises. No recorded music, that would be audible outside the premises, shall be played.

**Reason:** In the interest of clarity, and in order to safeguard the amenities of adjoining residential properties.

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

**Reason:** In the interest of visual amenity, and to allow the planning authority to assess the impact of any such signage or advertising structures through the statutory planning process, having regard to the fact that details of such signage or advertising were not provided with the application documentation.

6. 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.

7. Details of the proposed external finishes of the elevation to the ESB substation on Lennox Street shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The adjoining gym lobby entrance façade shall be fully glazed.

**Reason:** In the interest of visual amenity.

8. Site development and building works shall be carried out only between the hours of 0700 to 1800 Monday to Friday inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviations 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.

9. The developer shall control odour emissions from the premises in accordance with measures, including extract duct details which shall be submitted to, and agreed in writing with, the planning authority prior commencement of development.

**Reason:** In the interest of public health and to protect the amenities of the area.

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**Philip Jones**

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

**Dated this            day of            2018.**