



Planning and Development Acts 2000 to 2019

Planning Authority: Dublin City Council

Planning Register Reference Number: 3651/19

Appeal by SW Restaurant Limited (trading as SOLE Restaurant) care of McCutcheon Halley of Kreston House, Arran Court, Arran Quay, Dublin against the decision made on the 22nd day of January, 2020 by Dublin City Council to grant subject to conditions a permission to Widestar 2 Limited care of RPS Group Limited of West Pier Business Campus, Dún Laoghaire, County Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Change of use of semi-basement and ground floor from car park and retail to bar and jazz club with part retail/cafe-bar fronting onto Drury Street; construction of a sub-basement for customer toilets and store (circa 45.6 square metres); increase in the height of the existing basement level; reconfiguration of the internal layout to make it fit for purpose; modifications to the fire escape exit to South William Street at basement level; new pedestrian entrance and ground floor facade treatment to the bar and jazz club; relocation of pedestrian entrance and facade treatment to the ground floor retail/cafe-bar unit; associated elevational changes; and all associated works; all on a site of circa 0.042 hectares (circa 422.1 square metres) at 47 Drury 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, nature and design of the proposed development and to the zoning objective for the site in the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would not have an adverse effect on the character and setting of the South City Retail Quarter Architectural Conservation Area. 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 17th day of December 2019, 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 predominant use of the ground floor unit shall be retail. The café-bar within the ground floor unit shall be ancillary to the retail use and shall not become the dominant use within the unit without a prior grant of planning permission.

Reason: To restrict the use and clarify the extent of this planning permission.

3. The developer shall comply with the following requirements:
 - (i) The construction and operation of the development shall be carried out in accordance with the Noise Impact Assessment report submitted to the planning authority on the 17th day of December 2019. The proposed noise control measures within this report shall be implemented in full.
 - (ii) Music associated with the use shall be inaudible at the nearest noise sensitive premises.

- (iii) The noise levels from the site during the operational phase, measured as an LAeq (5 min at night, 15 min a day) when all proposed plant is operating, shall not exceed the LA90 by 5dB(A) or more.

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

- 4. 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 and off-site disposal of construction/demolition waste.

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

- 5. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

- 6. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 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.

7. (a) The hours of operation of the jazz club and bar shall be between 1800 and 2330 hours Monday to Wednesday, between 1700 and 0230 hours Thursday to Saturday, and between 1700 and 2330 hours on Sundays.
- (b) The hours of operation of the ground floor retail unit with ancillary café-bar shall be between 1100 and 2330 Monday to Saturday and between 1200 and 2330 hours on Sundays.

Reason: In the interest of the amenities of property in the vicinity.

8. No signage shall be erected on site or attached to the building without a prior grant of planning permission.

Reason: In the interest of visual amenity.

9. 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 enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

11. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

12. 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.

13. The developer shall pay to the planning authority a financial contribution in respect of the LUAS Cross City Scheme 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.

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

Dated this day of 2020.