



Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 5018/22.

Appeal by Xavier Management Holdings Limited care of Manahers Planners, Town Planning Consultants of 38 Dawson Street, Dublin against the decision made on the 5th day of December, 2022 by Dublin City Council to refuse a permission for the proposed development.

Proposed Development: The extension of the Landmark Public House (a Protected Structure), located at 1 Kevin Street Lower, Dublin and the ground floor of 40 Wexford Street, Dublin by amalgamation with the ground level of 39 Wexford Street, Dublin and the ground floor and part first floor of 38 Wexford Street, Dublin (the premises at 38 and 39 Wexford Street have been previously amalgamated and operational in their most recent use as a retail unit). The amalgamation will involve the demolition of part of the ground level wall between the Landmark Public House (a Protected Structure) and the ground floor level of 39 Wexford Street, Dublin 2, D02 Y389. Certain further demolition of existing partition walls at the ground level of the Landmark Public House (a Protected Structure) are also proposed. The development proposes a change of use of the premises at 38 and 39 Wexford Street from retail use to public house, with the extended area to be used as dining space

at ground floor and storage space at first floor. The total extension area at ground and first floor is 144 square metres. The development will consist of the installation of a new shopfront to both buildings at 38 and 39 Wexford Street and internal modifications at ground floor to the layout of the Protected Structure, the Landmark Public House at 1 Kevin Street Lower and 40 Wexford Street. No new kitchen installation is proposed; the new dining area is to be serviced from the existing kitchen, at the Landmark Public House, 1 Kevin Street Lower, Dublin, and, the ground floors of 40 Wexford Street, Dublin, 39 Wexford Street, Dublin and 38 Wexford Street, Dublin (a Protected Structure).

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.

Reasons and Considerations

Having regard to the documentation submitted, the grounds of appeal, the city centre zoning objective of the site and the provisions of the Dublin City Development Plan 2022-2028, the Board considered that the scale and nature of the proposed amalgamation, as well as the modest interventions involved including the substantive retention of the historic party wall, would not have a negative impact on the special character and integrity of the protected structure at the Landmark Public House (Number 40 Wexford Street and number 1 Kevin Street Lower), on the individuality and distinctiveness of the conservation area, or on residential amenity in the vicinity, would rehabilitate adjoining vacant retail units, provide for a new active commercial frontage and, subject to compliance with the conditions set out below, 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 and received by An Bord Pleanála on the 10th day of January, 2023, 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 proposed development shall be amended as follows:
 - (a) The link opening between number 39 Wexford Street and number 40 Wexford Street (Landmark Public House) shall be as shown on the diagram(s) included in the 'Design Rationale Document Appeal Submission to An Bord Pleanála (at page 5 of the Document), dated January 2023, submitted on the 10th day of January, 2023 as part of the appeal documentation, which clearly shows the opening in the west boundary wall between number 39 Wexford Street and number 40 Wexford Street, denoted as Area A, and which clearly shows the retention of the south party wall between number 39 Wexford Street and number 40 Wexford Street (denoted as Area B);
 - (b) the denoted Area A shall be amended in order to retain the angled wall in the (internal) north-west corner of number 39 Wexford Street at ground and first floor level (former chimney breast).

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of preserving the historic plots at numbers 38, 39 and 40 Wexford Street and in order to protect the special character and integrity of number 40 Wexford Street (Landmark Public House, a Protected Structure).

3. (a) A conservation expert 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 facades structure and/or fabric.
- (b) All repair 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. The 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.

- (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.

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

- 4. The proposed new shopfront to numbers 38 and 39 Wexford Street shall be in accordance with the following requirements:-

- (a) the shopfront design shall be as shown on Revision A, within Appendix A, of the 'Design Rationale Document Appeal Submission to An Bord Pleanála, dated January 2023, submitted on the 10th day of January, 2023 as part of the appeal documentation and shall be further revised to integrate the entrance to the upper floors of numbers 38 and 39 Wexford Street;
- (b) Detailed drawings (at minimum scale 1:20) of the proposed new shopfront, showing the materials, detailing, signage and colour scheme, shall be submitted to Dublin City Council for agreement prior to the commencement of development;
- (c) no awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,

- (d) no external roller shutter shall be erected and any internal shutter shall be only of the perforated type, coloured to match the shopfront colour;
- (e) no adhesive material shall be affixed to the windows or the shopfront.

Reason: In the interest of visual amenity and in order to protect the character (individuality and distinctiveness) and architectural integrity of this designated conservation area.

5. All works to the protected structure, shall be carried out under the supervision of a qualified professional with specialised conservation expertise. The following recommendations of the Architectural Heritage Impact Assessment, dated 14th February, 2022, submitted to the planning authority as part of the planning application, shall be adhered to in the implementation of the proposed development:

- The existing cast iron column, located on the left (south) side of the shop window of number 38 Wexford Street shall be protected and retained as part of the development;
- A soft strip-out of the modern wall linings within the vacant shop unit at 39 Wexford Street, shall take place prior to the formation of the proposed opening. A detailed inspection and photographic survey of the east face of the existing wall shall then be undertaken, during which any concealed features of interest shall be recorded. A photographic record of this survey together with a drawing setting out the final dimensions of the opening, and in compliance with Condition number 2 above, shall be submitted to Dublin City Council for review and final agreement;

- A soft strip-out of the toilets (to the rear of number 39 Wexford Street) shall take place prior to the formation of the new opening. A detailed inspection and photographic survey of the west face of the existing wall shall then be undertaken. This photographic survey shall be forwarded to Dublin City Council in the event that concealed features of interest are uncovered.

Reason: To secure the authentic preservation of the Protected Structure at number 40 Wexford Street (and the adjoining early nineteenth-century building at number 39 Wexford Street) and to ensure that the proposed works are carried out in accordance with best conservation practice.

6. (a) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 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 the residents of numbers 38, 39 and 40 Wexford Street and residents of property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during night-time hours.

- 7. 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 residential amenities of the residents of numbers 38, 39 and 40 Wexford Street and residents of property in the vicinity.

8. 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 off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity



Joe Boland

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

Dated this 20th day of February 2024.