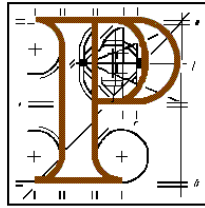


# An Bord Pleanála



## INSPECTOR'S REPORT

**PL 29S 245743**

**DEVELOPMENT:** Retention for outdoor seating associated with approved wine/spirits bar at ground floor under P. A. Reg. Ref. 2984/14 and 3364/14 consisting of removal furniture (4 tables and 8 chairs in an are projecting circa 3.7 metres out from the entrance steps and 2.7 metres in width and use during operation hours of the wine spirits' bar with clear access to the main entrance.

**LOCATION:** No 10 St Stephen's Green, Dublin 2.  
(Protected Structure)

### PLANNING APPLICATION

**Planning Authority:** Dublin City Council  
**P. A. Reg. Ref:** 3470/15  
**Applicant:** SLJ Ltd.,  
**Decision:** Refuse Permission.

### APPEALS

**Party Appellant:** S. L. J. Ltd.,  
**Type of Appeal** First Party against Refusal of Permission.  
**Observers** (1) Rory Fitzpatrick and Liam Murray.  
(2) Amanda and Susannah Jackson.

**Date of Inspection:** 28<sup>th</sup> January, 2016.

**Inspector** Jane Dennehy.

## 1. SITE LOCATION AND DESCRIPTION

No 10 St. Stephen's Green is one of a pair of three storey over basement three bay Georgian townhouses with granite steps to the main entrance at ground floor level, railings to the front and steps down to the basement level access. A wine and spirits bar is located at ground floor level and a restaurant ('Il Posto') is located in the basement. There is an outdoor seating area for Il Posto in front of the building adjacent to the area subject of the application which is in front of the entrance.

The two houses are set back behind the adjoining buildings and main front building line along Stephen's Green North between Grafton Street and Dawson Street. No 11 St Stephen's Green is to the east side and is the adjoining house in the pair of terraced Georgian Houses and St Stephen's Green Club is to the west side of the appeal site. St Stephen's Green and the Luas BX line which is under construction are opposite and are overlooked by the houses.

## 2. PLANNING HISTORY:

- 2.1 **P. A. Reg. Ref. 2984/14:** Permission was granted for change of use from retail to wine bar at ground floor and for works to the south facing (front) faced to include replacement of the windows and repointing. The application also included proposals for a range of external works and internal works.
- 2.2 **P. A. Reg. Ref. 3364/14:** Permission was granted for variation of the previously permitted development of a wine and spirits bar at ground floor level to allow for the sale of spirits and cocktails.
- 2.2 **P. A. Reg. Ref. 3546/14:** Permission was refused for change of use from retail to wine bar at ground floor, from office to wine bar at first floor, from office to storage and toilets at second floor and removal of a pitched roof at the rear to provide for a smoking area and wine garden at ground floor level. The reason for refusal related to in appropriate intensification of use and interventions to surviving historic fabric and character.
- 2.3 **P. A. Reg. Ref. 3751/15:** This is a concurrent application for Permission for retention of a kitchenette at first floor level and a dance area at ground floor level and associated works. A request for additional information was issued on 25<sup>th</sup> November, 2015 to the applicant.
- 2.4 There is also a prior planning history according to the application. (P.A. Reg. Refs. 4708/04. 0996/97, 1130/96 and 1165/94 refer.) The

planning officer also refers to a planning history in his report. (P. A. Reg. Refs 0110/03 and 1500/98 refer.)

### **3. DEVELOPMENT PLAN.**

3.1 The operative development plan is the Dublin City Development Plan, 2011-2017 according to which the site location is subject to the zoning objective: Z5 – *“To consolidate and facilitate the development of the central area and to identify, reinforce and strengthen and protect its civic design character and dignity”*.

3.2 No. 10 St. Stephen’s Green is included on the record of protected structures. (Item 7768) and the location is within the Grafton Street and Environs Architectural Conservation Area for which there is also a Special Scheme of Planning Control (2013)

The location is also within a ‘Conservation Area’ and within a ‘Zone of Archaeological Interest.’

Policies, standards and objectives relating to street furniture are set out in section 17.32.

St Stephen’s Green is not included among the designated ‘primary’ and ‘secondary’ shopping streets.

3.3 Policies and Objectives relating to outdoor and street furniture in the public realm are set out in section 17.32. High quality furniture is required and the planning authority has regard to size and location, concentration of existing street furniture, visual impact, impact on the street character, access and on amenities of adjoining property.

### **4. THE PLANNING APPLICATION.**

4.1 The application lodged with the planning authority indicates proposals for permission for retention of outdoor seating associated with the permitted and spirits bar operated at ground floor level. The furniture which is removable comprises four tables and eight chairs and the dedicated space is 3.7 metres forward of the bottom step by a width of 2.7 metres. The plan drawing shows an unobstructed route directly in front of the entrance steps with two tables and four chairs to each side. The application is accompanied with an architectural heritage impact statement incorporating some photographs.

4.2 The Conservation Officer’s report indicates a recommendation for refusal of permission due the location at the entrance threshold where there is a classical entrance route to the door case. It is stated that the historical character and dignity of the street scape would be undermined by cluttering with ad hoc seating and screens. Reference is made to

the special significance of St Stephen's Green as a seventeenth century Renaissance square with buildings which have high quality entrances around the perimeter.

- 4.3 The Roads and Transportation Department indicates a recommendation for refusal of permission as the proposed development would impede safe access, especially in emergency and concerns about the furniture spilling over onto the public footpath and adjacent properties obstruction pedestrian movements and as to undesirable precedent.
- 4.4 Dart Underground and the Drainage Division indicate no objection to the proposed development.
- 4.5 Objections were received from three parties, who of which have submitted observations on the appeal. Issues raised include noise and disturbance and safety concerns.

## 5. **DECISION OF THE PLANNING AUTHORITY.**

- 5.1 By Order dated, 15<sup>th</sup> October, 2015 the planning authority decided to refuse permission on the basis of the reason reproduced below:

*“Having regard to this highly prominent location on St Stephen's Green within an Architectural Conservation area and Scheme of Special Planning Control, and front a protected structure, it is considered that the retention of the existing development would negatively impact on the protected structure and the visual amenity of the streetscape, detract from the historic character of the Architectural Conservation Area and as such would be contrary to both the provision of the Dublin City Development Plan, 2011-2017 and the proper planning and sustainable development of the area “*

## 6 **THE FIRST PARTY APPEAL.**

- 6.1 An appeal was received from Margaret Mary Connolly on behalf of the applicant on 11<sup>th</sup> November, 2015 attached to which a layout drawing in which modifications to the layout are shown.
- 6.2 In the Appeal revisions to the original application for permission for retention are proposed in order to address the concerns of the planning authority and objectors. The revised proposal comprises a reduction from four tables and eight chairs to two tables and four chairs to be positioned adjacent to the boundary between No 10 and 11 at the front of the houses. Spillage over the boundary is to be controlled by the erection of high quality windbreakers mounted between steel poles and the access width is to be increased from 1300 to 1600 mm.

### 6.3 According to the appeal:

- The proposed seating is in keeping with the seating at the adjoining property and creates active street frontage in keeping with the zoning objective for sustaining city centre vitality day and night by creating a sense of community and mixed uses.
- There is no encroachment on the footpath.
- Barrels referred to by the planning officer in his report are omitted and the windbreakers, steel poles and umbrellas are contemporary and will be in keeping with the adjoining larger external seating area.
- The seating is critical to trade as there is no alternative area for use by patrons who wish to smoke.
- The amended layout does not affect the DAC and Fire Certs issued.

## 7. OBSERVER SUBMISSIONS

7.1 Submissions were received from two parties both of whom request that the planning authority decision to refuse permission be upheld, notwithstanding the revisions to the original proposal indicated in the appeal. An outline of each submission are set out below:

(1) **Mr Fitzpatrick and Mr Murray:** owners and landlords of the property at No. 11 St Stephen's Green.

They indicate concern about the designation of the seating area as a smoking area and overspill of customers onto adjoining property and the public footpath.

(2) **Ms Amanda and Ms Susannah Jackson:** Proprietors of 'Il Posto' Restaurant at No 10 St. Stephen's Green).

They indicate concern about:

- potential for an increased noise disturbance and overspill from the seating area especially during summer months.
- use of the external area as a smoking area would affect patrons dining in Il Posto's adjoining external seating area.

They support the conservation officer regarding ambience and amenity having regard to the architectural heritage significance of St Stephen's Green and about cluttering of the formal classical arrangement in front of the door case.

The submission also contains a number of remarks on planning history and enforcement, potential future unauthorised development, advertising of the applicant's business as a late bar / venue as opposed to a wine bar and that it is not in keeping with the ambience referred to in the conservation report and creates an environment contrary to the zoning objective.

The applicant's dance area (for which there is a concurrent application for retention) would be detrimental to patrons of 'Il Posto' dining outside. (P. A. Reg. Ref. 3470/15 refers.)

## **8. RESPONSE TO THE APPEAL BY THE PLANNING AUTHORITY.**

- 8.1 In a submission from the planning authority the views expressed in the planning officer's report are reiterated and it is requested that the decision of the planning authority be upheld. (There are no comments on or references to the revisions to the original proposal that are included in the appeal in the submission of the planning authority.)

## **9. EVALUATION**

- 9.1 The issues considered central to the determination of a decision are:

- Architectural Heritage Impact,
- Amenity and Public Realm (noise, visual, clutter, obstruction)
- Precedent.

### **9.2 Architectural Heritage Impact.**

The 'forecourt' space in front of Nos. 10 and 11 St Stephen's Green is an integral element of the context of the formal main entrances to the pair of fine Georgian Town houses setback from the principle front building line. It is considered that infill of this area, including infill such as removable furniture and screening interferes with the Georgian characteristics and historic relationship between this space and the houses. To this end the views and recommendations of the conservation officer, who also draws attention to the special heritage significance of St Stephen's Green is fully supported. The proposed development would materially affect the character of the protected structures and the statutory architectural conservation area.

### **9.3 Amenity and Public Realm.**

The Z5 zoning objective for the site location outside the primary and secondary retail streets, do not directly encourage the proposed development. There is a need for reliance for discretionary judgement on a case by case basis with regard to outdoor seating at cafes, bars

and restaurants and outdoor areas can positively contribute to the ambience and vitality of an urban environment. It is considered that external seating, screening and associated furniture and furnishings in addition to detracting from the context and integrity of the two Georgian townhouses, contributes to visual cluttering of the public realm at the location which is primarily a commercial rather than retail or restaurant/café location. The impact is reduced but not eliminated in the reduced proposal for two tables and four chairs.

9.4 Use of external seating for restaurants, bars and cafes potentially gives rise to noise and disturbance and spill over outside the designated space. The degree to which this would occur is very much determined by nature and intensity of use of the internal and external space. The area is a commercial area in which there is no immediately adjacent private residential development. Noise and disturbance would be potentially reciprocal with that of the external dining area for the basement level restaurant. (Il Primo).

9.5 The contentions as to the impact of a dance floor the retention of which is proposed in a concurrent application have been noted. However the application is undetermined. (P. A. Reg. Ref. 3470/15 refers.) It is considered that there is an insufficient case to favour rejection of the proposed development on grounds of noise disturbance and spill over of customers outside the designated outdoor seating area. The objection to the proposed development on the basis of future use as an area in which patrons may smoke is not a direct planning consideration. However, the nature of the existing permitted use gives rise to potential for obstruction of patrons accessing the existing and adjoining buildings and to pedestrian circulation in the area bearing in mind significant pedestrian movements on St Stephen's Green North between Grafton and Dawson Street in close proximity to the LUAS Green line.

#### 9.5 **Precedent.**

In some respects, a precedent is set by reason of the authorisation of the relatively sizeable external seating area for Il Primo which is operated from the basement. The nature of use of the applicant's business as a wine and cocktail bar is somewhat different and does give rise to use of the external space by patrons who are not seated and the proposed development would exacerbate any existing visual clutter impact. The proposed development would therefore broaden the nature of use of external seating space and increase visual clutter and considerably increase the scope of any precedent already established.

#### 9.6 **Appropriate Assessment.**

Having regard to the nature and scale of the proposed development and the likely emissions from it, the nature of the receiving environment and proximity to the nearest European site, no appropriate assessment

issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on European sites.

## **7. CONCLUSION AND RECOMMENDATION**

- 7.1 In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld and the appeal rejected. A draft order is set out overleaf.



## **DECISION**

**Refuse Permission for Retention on the basis of the reasons and considerations set out below:**

### **REASONS AND CONSIDERATIONS.**

1. Having regard to the Dublin City Development Plan, 2011-2017 according to which the site location of the site within an area subject to the zoning objective: *“Z5: – “To consolidate and facilitate the development of the central area and to identify, reinforce and strengthen and protect its civic design character and dignity”*, and to very prominent location within the classical space in the front of the staircase and entrance to one of the pair of Georgian Townhouses, protected structures within the St Stephen’s Green Architectural Area and Environs Architectural Conservation Area and Special Planning Control Scheme it is considered that the proposed retention of the outdoor seating, would detract from and adversely affect the integrity and context of the protected structures and the visual amenities and historic character of the Architectural Conservation Area, would obstruct the free flow of pedestrian circulation in the area and would set precedent for further similar development in the area. As a result, the proposed retention of the development would be contrary to the proper planning and sustainable development of the area.

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**Jane Dennehy,**  
**Senior Planning Inspector.**  
**2<sup>nd</sup> February, 2015.**