

An Bord Pleanála



INSPECTOR'S REPORT

PL 29S 246049

DEVELOPMENT: Permission for change of use of the ground floor and basement from retail outlet to coffee shop to include seating and counter to serve coffee and pastries and anew disabled WC at ground floor and ancillary services and toilets and staff facilities at basement level.

LOCATION: No. 29 Dawson Street, Dublin 2.

PLANNING APPLICATION

Planning Authority: Dublin City Council
P. A. Reg. Ref: 3861/15
Applicant: Thomas Pink Ireland Ltd.
Decision: Refuse Permission.

APPEALS

Party Appellant: Thomas Pink (Ireland) Ltd.
Type of Appeal First Party against Decision to Refuse of Permission.

Date of Inspection: 5th April 2016.

Inspector: Jane Dennehy.

1. SITE LOCATION AND DESCRIPTION:

- 1.1 No 29 Dawson Street is a four storey over basement building at the southern end and on the western side of Dawson Street. There is retail unit at ground floor level and the upper floors are in office use. The ground floor has a stated floor area of 135 square metres and the basement level has a stated floor area of 108 square metres.
- 1.2 A cocktail bar adjoins the north side and a Whiskey and Wine shop adjoins the southern side at ground floor level. Joshua Lane, off Dawson Street a short distance to the north adjoins the rear western boundary onto which there is a rear access to the building. The immediate surrounding area is characterised primarily by mixed use commercial and retail development.

2. THE PROPOSED DEVELOPMENT:

- 2.1 The application lodged with the planning authority indicates proposals for change of use of the ground floor retail unit and basement levels to a coffee shop. At ground floor level the layout indicates a servery and counter seating to the front and booth seating at the rear and a disability toilet. At basement level the floor plans indicate office storage space to the front and toilet, staff and ancillary facilities. New signage to the fascia is also indicated.

3. PLANNING HISTORY.

- 3.1 There is no record of recent planning history for the site

4. DECISION OF THE PLANNING AUTHORITY.

- 4.1 By order dated, 28th January, 2016, the planning authority decided to refuse permission on the basis of the following reason:

“The proposed development for a change of use from retail to coffee shop on a street located in the South City Retail Core and designated as Category 2 would be contrary to the primary objective of this designation, which is to strengthen the retail character of the principle shopping streets and to provide an appropriate mix of complementary uses. It would result in an erosion of the retail character of the street and result in a disproportionate number of complementary uses at this location and would be contrary to Section 10.5.2 of the Dublin City Development Plan, 2011-2017, the south City Retail Quarter

Architectural Conservation Area and the proper planning and sustainable development of the area.”

- 4.2 The planning officer in his report notes the prioritisation of the retail function of the street according to the development plan policy objectives and existing coffee shops in the area, a complementary use. He indicates concern about potential erosion of the retail primacy.
- 4.3 The technical reports indicate no objection to the proposed development.

5. **THE APPEAL.**

- 5.1 An appeal was received from Manahan Planners on behalf of the applicants on 19th January, 2016.

According to the submission:

- The presence and contribution of coffee shops in the city centre is supported in the Retail Strategy, para 10.5.2 and the Z5 zoning objective in the development plan.
- The increase in demand for restaurants and coffee shops is part of an international trend in contributing to the appeal of city centre environments including increasing residential use. Coffee shop use contributes to the vibrancy and appeal of the city centre street network as a meeting place and is a draw and a facility for visitors and locals.
- The retail sector has experienced radical transformation and there is declining demand for retail floor space, particularly for comparison goods. It is not the function of a planning authority to require a quantum of retail floor space in excess of that required to be available. The planning system should be flexible and coffee shop use is easily reversible should demand for retail floor space increase.
- Dawson Street is one of the finest streets, the quality of which come from the mix of land uses which includes retail. The proposed development does not involve change to the exterior and it will contribute to the visual amenity and character of the street and will increase footfall at the southern end.
- The increasing demand for office space in Dawson Street due to the strengthening of the economy will benefit from a plentiful supply of coffee shops. The redevelopment of the building at the corner of Molesworth Street resulted in loss of a coffee shop and it is likely that a fashion retailer will locate in the ground floor unit of the new building. There are only two small coffee shops at the

southern end of the street with very limited sit down facilities. These units and other coffee shops on the street are small, overcrowded and uncomfortable.

- The proposed coffee shop has spacious seating and a relaxing environment and will accommodate thirty to fifty people which will enliven the environment in contrast to the two staff and few customers at the existing retail outlet most of the time. The proposed development would therefore be more consistent with sustainability and encouraging vibrancy and vitality in line with development plan objectives.
- The South City Retail Quarter Architectural Conservation Area and notably, the South William Street, Drury Street and Clarendon street area have been enlivened and have become more attractive due to the introduction of complimentary uses in recent years.

6. RESPONSE OF THE PLANNING AUTHORITY ON THE APPEAL.

- 6.1 According to a statement received on 9th February, 2016, it can be confirmed that the planning authority is satisfied with the decision to refuse permission and reference is made to the planning officer report.

7. OBSERVER SUBMISSION

- 7.1 A Submission was received from Node Architecture on behalf of The Beanhive coffee shop based a short distance to the north side of the appeal site property at 26 Dawson Street on 15th February, 2016 which it is stated, has been in operation for twenty years

According to the submission:

- The proposed development would have a detrimental impact on business at Beanhive and would create precedent for further inappropriate use for a Category 2 Retail Sstreet. Extracts from the South City Retail Quarter Architectural Conservation Plan and from the planning officer's report are reproduced to support the claim that the planning authority decision to reuse permission is correct.
- There has been a proliferation of coffee shops (over twenty units) over the past along Dawson Street which is reducing the core retail use of the street. The onus should be on reducing the supply and increasing the range of retail outlets. The nature of businesses allowed to operate should be controlled so that it is primarily retail when there is increased footfall due to the LUAS

extension. The submission includes a survey of coffee shop cafes on Dawson Street and Environs which is included with an accompanying map.

8. DEVELOPMENT PLAN.

- 8.1 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”*.
- 8.2 The location is within the South City Retail Quarter Architectural Conservation Area according to which the street is designated as a Category 2 Retail Street.
- 8.3 According to para 10.5.2, the extent of non-retail use at ground floor level should be controlled to allow for uses that are complementary to the main shopping focus such as cafes bars restaurants and galleries.
- 8.4 Policy RE10 provides the promotion of the local traded sector and recognises the clustering benefits of uses such as cafes and restaurants. Sections 17.30 and 17.31 recognises the positive contribution of clusters of restaurants and cafes to the vitality of the city subject criteria which includes the extent of restaurants and retail services in Category 1 and 2 streets and the need to safeguard the mix of uses. An elaboration on the policy objectives for Category 1 and 2 Shopping Streets in the retail core is provided in Appendix 4.
- 8.5 According to the retail strategy, cafes and restaurants make a valuable contribution to the integrated shopping and leisure experience in the centre of the city.
- 8.6 Policy 3.1 provides for promotion of non-retail complementary activities such as cafes and restaurants at basement and first floor levels. On their individual merits and local circumstances and a range of factors to be taken into account in consideration of proposals for change of use.

9. EVALUATION

- 9.1 The consideration central to the determination of the decision is as to whether the proposed change of use from retail to café is consistent with the strategic policy objectives for the Dawson Street which is designated as a Category 2 ‘Shopping’ Street within the South City Retail Quarter Architectural Conservation Area. (The building is not included on the record of protected structures.)

- 9.2 The characteristics of and objectives for Category 1 and Category 2 shopping streets are clearly distinguished. (Section 17.31 of the development plan refers.) . The focus for Category 1 streets such as Grafton Street provides for high order comparison retailing whereas the retail focus for Category 2 streets provides broader mix of uses especially complementary café, restaurant and bars which can encourage and contribute to vitality and viability of the city core in daytime and evening time. However, for the retail core architectural conservation area in particular, it is considered that the nature of café and restaurant development should be carefully managed and to this end, internet café and outlets for the sale of food for consumption of the premises are discouraged in the development plan.
- 9.3 Dawson Street for a long period has been characterised by a mix of commercial office buildings, professional and related practices which have included some ground floor public office use, and institutions such as the RIAC and RIA and St. Anne's Church interspersed with retail development. Some of these businesses have replaced retail and commercial development, including professional offices on ground floors. This city core area is and will have an increasing daytime population and intensity of land use and presence of employees and visitors, bearing in mind the location and recent and current redevelopment and intensification of office/commercial development, and local and tourist visitors and extent and range of public transport and facilities including the LUAS cross city route. The availability of street level clusters of coffee shops and similar complementary uses contribute positively to urban environments of this nature.
- 9.4 The restaurant, bar and café offer on Dawson Street at ground floor level has increased over the past ten to fifteen years and this has been consistent development plan policy objectives for encouragement of complementary land use contributing to day and night time the vitality and viability in the city core area. This is indicative in the survey provided by the observer party indicates the various café, bar and restaurant premises along Dawson Street and part of St Stephen's Green, Anne Street and Duke Street the current and prior development plans but it should be borne in mind that the majority of the premises are relatively small but they are effective in encouraging increased footfall.
- 9.5 Bearing in mind the foregoing comments, it is not accepted that the proposed change of use would contribute significantly to erosion of retail use or would lead to over concentration of complementary cafe use at the southern end of Dawson Street. Furthermore clustering of a variety of options in complementary restaurant, café and bar uses is positive in contributing to vitality and viability. The proposed development would contribute positively within the mix of retail and café/bar uses on Dawson Street. As explained in the appeal the proposed café is less constrained and restricted than some other café outlets by reason of the availability of booth seating in the rear space in addition to the seating at counters to the front. The proposed development is an appropriate fit by

way of the characteristics which are somewhat being between a restaurant and a sandwich bar.

- 9.6 In view of the foregoing it is concluded that there is an insufficient case to support the reason the refusal of permission attached to the planning authority decision and it is recommended that the appeal be upheld. Conditions can be attached to preclude internet café use and use for the sale of hot food for consumption off the premises and for a requirement for a compliance submission in relation the signage for the fascia.
- 9.7 Finally, the Board may wish to refer to the previously determined appeal for change of use from retail /office use to restaurant and bar use at No 31 Dawson Street under PL 29S 241785.
- 9.8 **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

A draft order is set out overleaf.

DECISION

Grant Permission on the basis of the reasons and considerations set out below:

REASONS AND CONSIDERATIONS.

Having regard to the Dublin City Development Plan, 2011-2017 according to which the zoning objective ("Z5 - City Centre") provides for the consolidation and facilitation of the development of the central area, the designation of Dawson Street as a Category 2 retail street in the South City Retail Quarter Architectural Conservation Area the policy for which provides for encouragement of the local traded sector and uses that are complementary to the main shopping focus such as cafes bars restaurants and galleries that contribute to the vitality and viability of the area and, to the pattern and mix of landuses in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would contribute to vitality and viability and would not erode the retail focus of the 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 7th day of February, 2013, 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 shopfront fascia shall be in accordance with the following requirements:
 - (a) Signage shall be confined to the single fascia board using sign writing or comprising either hand-painted lettering.

- (b) Details of any lighting to be provided on the exterior of the premises shall be submitted to the planning authority for written agreement.
- (c) 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, unless authorised by a further grant of planning permission.
- (d) No adhesive material shall be affixed to the windows or the shopfront.

Reason: In the interest of visual amenity.

- 3. The grant of permission excludes the use of the premises as an internet café or for the sale of hot food for consumption off the premises.

Reason: In the interest of the protection of amenity and character of the Dawson Street and the South City Retail Quarter Architectural Conservation Area.

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

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

- 5. 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.

- 6. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority detailed information showing compliance with the Acoustic Assessment submitted to the

planning authority as further information on the 7th day of February, 2013 together with any monitoring measures considered necessary.

Reason: In the interest of the civic amenities of the area.

8. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

11. 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

12. The developer shall pay to the planning authority a financial contribution in respect of Metro North 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 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

**Jane Dennehy,
Senior Planning Inspector.
6th April, 2016.**