
An Bord Pleanála



Inspector's Report

Ref.: PL28.247089

Development: Change of use at 23-25 Princes Street and 54 South Mall from a former ground floor bank to restaurant use including; internal alterations; new external signage and lighting; minor alterations to front and side elevations; extract duct work to rear; associated drainage works and all ancillary development works at ground floor unit.

Ground floor unit, 23-25 Princes Street, 54 South Mall, Cork.

PLANNING APPLICATION

Planning Authority: Cork City Council

Planning Authority Ref.: 16/36901

Applicant: Michael O'Connell, Pat McNally & James Riordan

Type of Application: Permission

Planning Authority Decision: Refusal

APPEAL

Type of Appeal: First Party v. Decision

Observers: J.W. O'Donovan
INSPECTOR: Robert Speer
Date of Site Inspection: 5th December, 2016

1.0 SITE LOCATION AND DESCRIPTION

1.1 The proposed development site occupies a corner plot at the junction of Princes Street with South Mall in Cork City Centre and comprises the vacant ground floor unit of an existing three-storey, end-of-terrace building. Whilst the wider area can be described as mixed-use given the presence of a variety of retail and commercial outlets, including shop units, offices, hotels, public houses, and restaurants, South Mall is traditionally known as Cork's premier office district and is dominated by auctioneers, insurance brokerages, solicitor's offices and other such uses. The site itself has a stated site area of 0.33 hectares, is irregularly shaped, and is limited to the ground floor unit of the existing property which would appear to comprise a classically designed four-bay period construction with ornate window surrounds / plaster mouldings, corncicing and a parapet roof detail onto South Mall.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

2.1 The proposed development consists of the change of use of the ground floor unit (floor area: 293m²) at Nos. 23-25 Princes Street and No. 54 South Mall from its former use as a bank to use as a restaurant which will involve various internal alterations to the building layout / structure. External elevational changes to the property are also proposed and these include the removal of the existing ATM ope from within the front (South Mall) elevation of the building and its replacement with a new window construction and the erection of new signage and lighting (including a series of stainless steel wall-mounted 'up / down' lighters, 2 No. signs comprising stainless steel lettering held off the wall and backlit with LED lighting, and an internally-lit projecting PVC sign to be affixed at fascia level along the Princes Street elevation). In addition, associated site development works will include the installation of a new extract fan and associated ducting in the courtyard to the rear of the property which will extend to a height of 1,000m above roof verge level.

3.0 RELEVANT PLANNING HISTORY

3.1 On Site:

PA Ref. No. 03/27837. Was granted on 1st March, 2004 permitting Ulster Bank Ireland Ltd. permission to alter 1 no. existing window to form an escape door on the east elevation to Princes Street inclusive of ancillary site works.

PA Ref. No. 04/28923. Was refused on 13th December, 2004 refusing Ulster Bank (Ireland) Ltd. permission for new internally illuminated fascia signage and 2 no. new internally illuminated projecting signs.

PA Ref. No. 05/29229. Was granted on 1st April, 2005 permitting Ulster Bank (Ireland) Ltd. permission for 1) The provision of new backlit LED halo-illuminated fascia signage and the provision of a new non-illuminated fascia sign to South Mall, 2) The provision of new backlit LED halo-illuminated fascia signage and the provision of 2 no. non-illuminated flat panel fascia signs to Princes Street, and 3) The provision of 2 no. non-illuminated projecting signs to South Mall and Princes Street 4) The replacement of the existing ATM advertising panel at Ulster Bank.

PA Ref. No. 15/36342. Was refused on 14th May, 2015 refusing R & COD Foods Ltd. permission for the change of use from existing ground floor bank to restaurant use, internal alterations, new external signage and lighting and minor alterations to front and side elevations, extract ductwork to rear, and associated drainage works, for the following reason:

- Having regard to planning policy and development objectives as outlined in Paragraph 13.28 and Objective 13.10(c) of the Cork City Development Plan 2015-2021 which seek to retain office uses on ground floors on South Mall, the proposed development would materially contravene the objectives of the Plan, contrary to the proper planning and sustainable development of the area.

3.2 On Adjacent Sites:

PA Ref. No. 03/26957. Was granted on 11th June, 2003 permitting Barry Walsh permission to alter ground floor shop front façade at 26-28 Princes Street, Cork.

PA Ref. No. 05/29537. Was granted on 4th July, 2005 permitting J.W. O'Donovan, Solicitors, permission to erect a sign made up of individually mounted powder coated aluminium letters on the front elevation at 53 South Mall, Cork.

3.3 On Sites in the Immediate Vicinity:

PA Ref. No. 08/33152. Was granted on 22nd August, 2008 permitting Eagle Star Life Assurance Company of Ireland Limited permission for development at the site of 55 South Mall, Cork. The development will consist of the erection of two signs, one attached to the outside south wall and one to the outside of the west wall both at a height of 3.95m and fixing of logos or decals to the glazed front

door and windows together with the removal of two existing signs. All at 55 South Mall, Cork.

3.4 Other Relevant Files:

PA Ref. No. 03/27160. Was granted on 21st October, 2003 permitting Tumblegate Limited permission for 1) The removal of the interior of the mill building and retention of the existing south facade to the street, 2) the insertion of a new full height glazed opening to the facade of the mill building, 3) the conversion of the mill building into a five storey mixed use development, comprising 315m² of bar/restaurant on the ground floor, 1,450m² of offices on the first, second and third floors and two duplex apartments on the fourth and fifth floors. Accommodation in the house will include 166m² offices on the first and second floor and a single duplex apartment on the third and fourth floor, 4) construction of a parking structure to the rear to accommodate up to 30 cars on three levels. 5) formation of vehicular access from the street to the new parking structure and new steps. No. 4 & 5 Father Matthew Quay are protected structures. All at 4 & 5 Father Matthew Quay, Cork.

PA Ref. No. 09/34047. Was granted on 10th February, 2010 permitting Riverway Inns permission for a change of use from bank to bar and restaurant and alterations to the existing building including elevational changes, the addition of a first floor roof terrace with permanent canopy and timber clad fence, second floor bin store enclosed with timber clad fence, 2 No. ground floor roller canopies, roof level solar panel, signage, internal modifications and all ancillary site development works, all at 41 South Mall, Cork.

PA Ref. No. 11/35073. Was granted on 13th February, 2012 permitting Paul O'Carroll permission for a change of use from shop to cafe at 78 South Mall and accessed from South Mall and Pembroke Street (Protected Structure PS280) and all ancillary signage.

PA Ref. No. 15/36426. Was granted on 22nd February, 2016 permitting Mary Dorgan Silke & Kevin Silke permission for a change of use from office to café/restaurant and alterations to internal layout at 96 South Mall, Cork.

4.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION

4.1 Decision:

On 18th July, 2016 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following reason:

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- Having regard to planning policy and development objectives as outlined in Paragraph 13.28 and Objective 13.10(c) of the Cork City Development Plan 2015-2021 which seek to retain office uses on ground floors on South Mall, the proposed development would materially contravene the objectives of the Plan, contrary to the proper planning and sustainable development of the area.

4.2 Objections / Observations:

A single submission was received from an interested party and the principle grounds of objection contained therein can be summarised as follows:

- The subject proposal is identical to that previously refused permission on site under PA Ref. No. 15/36342.
- There was no consultation with the observer prior to the lodgement of the planning application.
- It would appear that there was no discussion of the proposal with the Planning Authority prior to the lodgement of the application.
- The large vertical extraction / ventilation duct which is proposed to be affixed to the wall of the kitchen area to the rear of the building will terminate approximately 1m above the eaves level of the lower roof of the existing building on site, however, it will also be close to the opening level of the first floor velux windows to the rear of the observer's property at No. 53 South Mall and, therefore, there are concerns that smells will enter the observer's building both through these windows and others at a higher level to the rear of the property.
- The plume from the proposed extraction / ventilation ducting will terminate below the windows of the library in No. 53 South Mall and also beneath those top floor windows above the velux rooflights to the rear of the property.
- The reference to the ducting as being '*1,000mm above the roof verge*' is misleading in that it refers to the roof verge of the existing building on site as opposed to that of the observer's property.

4.3 Internal Reports:

Water Services: No objection subject to conditions.

Chief Fire Officer: Recommends a refusal of permission on the basis that the proposed development, if constructed as detailed, would endanger the health and safety of persons occupying or employed in the structure in the event of fire.

However, it is also suggested that the applicant / developer could be requested by way of further information to submit a revised layout showing compliance of the means of escape in case of fire with the requirements of Part B of the Second Schedule to the Building Regulations, 1997-2014, and that the submission of a satisfactory response may allow for a complete re-examination of the proposal.

Mr. Kevin Gallagher: No objection subject to conditions.

4.4 Prescribed Bodies / Other Consultees:

Irish Water: Recommends that further information should be sought in respect of the installation of a suitable grease trap / interceptor prior to the discharge of all waste water from any proposed kitchens and food preparation areas to the public sewerage system.

5.0 GROUNDS OF APPEAL

The grounds of appeal are summarised as follows:

- The aim of Cork City Council is to make the City Centre retail area a fusion of shopping, leisure and entertainment and to distinguish it from the more functional shopping areas of the suburbs. It is this mixture of retailing, restaurants, pubs, entertainment and cultural experiences that makes the City Centre different from other retail locations.
- The City Development Plan considers restaurants to comprise commercial leisure uses and in this respect Objective 3.13 of the Plan states that the priority for such developments will be given to City Centre locations, followed by edge of centre sites, district centres and neighbourhood centres. It is also stated that the availability of a choice of transport modes will be essential and that smaller scale pubs and restaurants will be open for consideration within the aforementioned centres, as well as in local centres and areas zoned '*Residential, Local Services and Institutional Uses*', provided residential amenity and traffic considerations are acceptable.
- In accordance with the development strategy for the City Centre, the focus for retail development is the City Centre Retail Area with other uses discouraged in certain streets in order to retain a concentration of higher order retail in key areas. The proposed development site is not located in an area of prime retail frontage and in this respect it is submitted that outside of the key retail streets, such as within the Commercial Core Area, all other uses (including office development) are permitted. Furthermore, it

is of relevance to note that restaurant and leisure uses are dispersed throughout these zones.

- Paragraph 13.18 of the City Development Plan acknowledges the contribution which restaurants, bars, clubs and other entertainment uses make towards the economy and vibrancy of the City Centre. The positive contribution of cafes and restaurants to the vitality of the city is also recognised.
- South Mall is Cork's traditional prestigious office location and has functioned as the City's Central Business District for some time. However, as has been recognised by the Planning Authority, there are relatively high vacancy levels on the street. In this regard the Board is advised that Paragraph 13.28 of the City Development Plan states the following:

'The City Council will seek to promote the retention of office uses in South Mall in order to provide suitable office space for small to medium sized business . . . Non-office uses at ground floor level, such as restaurants, will only be open for consideration in the part of the street east of Morrison's Street on the south side and east of Beasley Street on the north side (as these areas form a book-end to the street and have the potential to interact with nearby public spaces), where it can be clearly shown that they would support the primary office uses and do not detract from heritage assets or the character of the street'.

- In addition to the protection, upgrading and expansion of retailing, the applicable land use zoning objective allows for the development of a range of other supporting uses such as residential, hotel, office, cultural and leisure facilities which will serve to complement the retail function of the City Centre Retail Area and will also promote vibrancy in the City Centre. In this respect it is submitted that the subject proposal comprises a supporting use which would be complementary to the existing retail and commercial uses in the area. Furthermore, on the basis that the building in question has been vacant for some time, it is considered that the proposed change of use to a restaurant would promote vibrancy along this part of South Mall.
- Whilst Objective 13.10(c) of the City Development Plan seeks to promote and retain office uses along South Mall in order to provide suitable office space for small to medium sized businesses in the City's premier office location, Paragraph 13.28 of the Plan subsequently states that:

'Non-office uses at ground floor level, such as restaurants, will only be open for consideration in the part of the street east of Morrison's Street on the south side and east of Beasley Street on the north side (as these areas form a book-end to the street and have the potential to interact with nearby public spaces), where it can be clearly shown that they would support the primary office uses and do not detract from heritage assets or the character of the street'.

Having regard to the foregoing, it should be noted that there was a trend for a number of years for long-established companies to relocate to out-of-town locations in order to occupy larger and more modern office spaces and that this resulted in an increased vacancy rate along South Mall, however, demand for office space has now shifted back to the City Centre and this is evident from the number of recent office developments in the City Centre in addition to those schemes currently going through the planning process, including One Albert Quay, the former Capitol cinema site, Albert Quay East and the former Brooks Haughton site at South Terrace. Therefore, it is clear that there is presently a demand for high quality modern office space (Grade A and Third Generation) in City Centre locations whilst there has also been a resurgence in interest in the City's Docklands. In this respect it is notable that one Munster-based member of the Society of Chartered Surveyors Ireland is quoted in the Annual Commercial and Property Review and Outlook 2015 as stating that *'the oversupply of older stock in the city centre remains challenging as potential tenants are seeking and are prepared to pay for third generation offices which makes it difficult to see how the older stock in the City Centre will be absorbed'.*

In light of the above, it is submitted that the policy of retaining South Mall for office use is unduly restrictive to the long-term functioning and vibrancy of the street given that demand is not as strong as it once was. Accordingly, planning policy should allow for uses that are complementary to the commercial character of the street. Indeed, the City Development Plan recognises the changing requirements for office space by proposing to concentrate new office development in an office quarter taking in the eastern end of the City Centre and the western end of The Docklands. It is also recognised in paragraph 13.25 of the Plan that if Cork City is to benefit from the global trends there needs to be a significant expansion and improvement in the range and quality of office product available.

Therefore, it is submitted that the proposed development is appropriate in terms of the site zoning as it would be complementary to, and supportive of, established uses in the area. Whilst it does conflict with the objective to retain office uses at ground floor level along South Mall, the proposed development is acceptable in terms of the proper planning and sustainable development of the area.

- With regard to the pattern of development in the area, the Board is advised that there are many other examples of a change of use to restaurant / café along South Mall:
 - The bar / restaurant which is located to the west end of South Mall was originally in use as a bank and was subject to a change of use under planning reference TP 09/34047 *'for change of use from bank to bar and restaurant and alterations to the existing building including elevational changes, the addition of a first floor terrace with permanent canopy and timber clad fence, second floor bin store enclosed with timber clad fence, 2 No. ground floor roller canopies, roof level solar panel, signage, internal modifications and all ancillary site development works'*.

In this respect the Board's attention is drawn to the planner's assessment of that application which stated that as the building in question *'mainly fronts towards Grand Parade and will open onto the adjoining 'Peace Park' and also onto the river, it is considered therefore that a non-office use can be justified at this location. The principle of a restaurant use would provide supervision and activity for this public space in the evening hours and is therefore supported in principle'*.

- The majority of the building frontage is onto Princes Street where there are approximately 11 No. existing businesses concerning food-related uses:
 - The Ivory Tower- First Floor, The Exchange Buildings, 35 Princes Street
 - Ristorante Rossini – 33-34 Princes Street
 - OCO Chocolate Bakery – 32 Princes Street
 - Tedo – 31 Princes Street
 - The Indian Palace – 31 Princes Street

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- Quinlan's Seafood Bar – 14 Princes Street
 - Clancy's Bar and Restaurant – 15/16 Princes Street
 - Yuan Min Yuan – 17 Princes Street
 - Nash 19 – 19 Princes Street
 - Pearl River – 21 Princes Street
 - Wild Ways – 21 Princes Street

Therefore, it is submitted that the subject proposal is consistent with the pattern of development in the area. In its current vacant state, the existing building is under-used at a key juncture between Princes Street and South Mall. This location is a focal point for drawing pedestrians from the South City Suburbs (due to the natural desire lines and the location of pedestrian crossings) and in leading persons from Parliament Bridge to South Mall and onwards to Princes Street and the core city areas such as Oliver Plunket Street and St. Patrick's Street.

- Paragraph 13.28 of the City Development Plan allows for restaurant uses at the east end of South Mall *'as these areas form a book-end to the street'*. In this regard it is submitted that the subject proposal could perform a similar function in that it would provide for the occupation of a vacant building at a rather prominent junction entering the City Centre from the South Channel of the River Lee.
- Further examples of a change of use to restaurant / café along South Mall include:
 - The 'Bookshelf Coffee House' at No. 78 South Mall which was granted planning permission under TP 11/35073 for a *'change of use from shop to café at 78 South Mall and accessed from South Mall and Pembroke Street (Protected Structure PS280) and all ancillary signage'*.

Given the history of retail use at the aforementioned premises, it was considered that the café proposed in that instance would not contravene development plan policy as it would not result in the loss of an existing office unit. Accordingly, although the subject site was previously in use as a retail office, it should be noted that it has been vacant for some time and that the change of use to restaurant would therefore not result in the loss of an existing office.

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- 'Jacobs on the Mall' was granted planning permission under TP 03/27160 with further modifications to the floorspace approved in subsequent applications. This is a long established restaurant on the South Mall which provides a high class dining experience.
 - Planning permission was also granted under TP 15/36426 for a '*change of use from office to café / restaurant and alterations to internal layout*' at 96 South Mall.
- The subject proposal complies with the relevant land use zoning objective and is considered to be acceptable in terms of the proper planning and sustainable development of the area.

6.0 RESPONSE TO GROUNDS OF APPEAL

6.1 Response of the Planning Authority:

No further comments.

7.0 OBSERVATIONS

7.1 J.W. O'Donovan:

- There was no consultation with the observer prior to the lodgement of the subject application despite his property at No. 53 South Mall directly adjoining both the side and rear of the application site.
- It would appear that there was no discussion of the proposal with the Planning Authority prior to the lodgement of the application despite the serious implications of the proposed development.
- There are serious concerns with regard to the large vertical extraction / ventilation duct which is proposed to be affixed to the wall of the kitchen area to the rear of the building. This ducting will terminate approximately 1m above the eaves level of the lower roof of the existing building on site, however, it will also be close to the opening level of the first floor velux windows to the rear of the observer's property at No. 53 South Mall and, therefore, there are concerns that smells will enter the observer's building both through these windows and others at a higher level to the rear of the property.
- The plume from the proposed extraction / ventilation ducting will terminate below the windows of the library in No. 53 South Mall and also beneath those top floor windows above the velux rooflights to the rear of the property.

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- The applicant's reference to the ducting as being '1,000mm above the roof verge' is considered to be misleading in that it refers to the roof verge of the existing building on site as opposed to that of the observer's property.

8.0 DEVELOPMENT PLAN

Cork City Development Plan, 2015-2021:-

Land Use Zoning:

The proposed development site is located in an area zoned as 'City Centre Retail Area' with the stated land use zoning objective 'To provide for the protection, upgrading and expansion of retailing, in particular higher order comparison retailing, as well as a range of other supporting uses in the City Centre retail area'.

Explanatory Note:

The City Centre Retail Area boundary is drawn to reflect the existing and growing core area of retail activity in the City Centre. The City Council is committed to the reinforcement of the City Centre's role in the retail hierarchy by supporting existing retailing and facilitating the development new floor-space to meet projected demand. Retailing is prioritised in this area but not to the exclusion of other land use types. Other uses such as residential, hotel, office and cultural and leisure facilities etc. which complement the retail function of the CCRA and promote vibrancy in the City Centre are also permitted, subject to the policies to promote City Centre retailing in Chapter 13.

Other Relevant Policies / Sections:

Chapter 3: Economic Strategy:

Objective 3.8:

Retail Offices:

To facilitate and encourage the development of retail offices in the City Centre and to support the development of retail offices serving a local function in District, Neighbourhood and Local centres commensurate with the service function and scale of the centre as outlined above.

Objective 3.9:

Prime office locations:

The City Council will support the development of the City Centre and Docklands as the primary locations for higher order general office development in the city region. Any scale of general office is acceptable in the Commercial Core

Area, while general offices over 400 sq. m. will be acceptable in Docklands mixed use zones.

Objective 3.13: *Commercial Leisure:*

To ensure that all major commercial leisure developments are located in accordance with a sequential test approach. The priority will be City Centre locations, followed by edge of centre, then district centres and neighbourhood centres. The availability of a choice of transport modes will be essential. Smaller scale pubs and restaurants will be open for consideration in these centres as well as local centres and areas zoned "Residential, Local Services and Institutional uses" provided residential amenity and traffic aspects are acceptable.

Chapter 13: City Centre and Docklands:

Section 13.9: City Centre Development Strategy:

The priority development area within the city is Cork City Centre with the Docklands area developing over time in a complementary role. Figure 13.1 illustrates the broad development strategy for the city centre. This broadly reflects the land use zoning objectives outlined below. The City Centre Retail area will be the focus for retail development and in certain streets other uses will be discouraged in order to retain a concentration of higher order retail in key areas. Outside of these key retail streets all other uses including office development will be permitted in this zone and also in the Commercial Core Area. Restaurant and leisure uses are also dispersed throughout these zones. New office development will be particularly targeted at the eastern end of the City Centre and extending into the adjacent parts of Docklands. Residential development is encouraged throughout the City Centre but the areas north and south of the central island in Shandon and the South Parish will continue to have a predominant residential focus. Cultural tourism and leisure uses are dispersed throughout the City Centre but from a cultural heritage point of view particular emphasis is given to the historic spine running through the medieval city and linking the Shandon and South Parish cultural heritage precincts.

Section 13.18: Culture, Tourism and Entertainment:

The City Council acknowledges the essential role which restaurants, bars, clubs and other entertainment uses play in the economy and vibrancy of the City Centre and it will facilitate the future development of this sector, while balancing the needs to protect amenities of residents from excess noise and disturbance.

There is concern also to ensure that entertainment uses do not over-dominate the commercial and visual character of particular streets.

Objective 13.8: *Leisure and Entertainment Uses:*

The City Council will support the development of leisure and entertainment facilities such as restaurants, public houses, music and dance venues, visitor attractions and other leisure facilities in the City Centre to facilitate the needs of residents and visitors and contribute to the vibrancy of the area.

Applications for new development will be treated on merit but discouraged in areas where conflicts with established residents are likely to arise. The Cork City Council will control location, size and activities of entertainment uses that are likely to attract large numbers in order to safeguard residential amenity, environmental quality and the established character of parts of the City Centre.

Section 13.25: *Offices:*

Office based activities are a major part of the City Centre's business and employment base and contribute to the well-being of the City Centre by generating spend that support shops, restaurants and service businesses. The City Centre Strategy report (2014) states that City Centres globally are increasingly attractive as office locations due to the range of services, good quality environment and accessibility that City Centres provide - countering the trend towards business park locations for high density offices. There is significant potential both in the City Centre and the adjoining Docklands areas to meet the need for large floor plate offices, medium sized businesses and also attractive low rent space with character for start up and grow-on businesses. This Plan proposes the City Centre and the adjoining Docklands areas as the prime office locations in the city. However, it is recognised that if Cork City is to benefit from the global trends there needs to be a significant expansion and improvement in the range and quality of office product available. The provision of high-quality office space aimed at attracting key investment and office-related employment also needs to be supported by public transport and environmental improvements.

Sections 13.27 - 13.28: *South Mall:*

South Mall is Cork's main traditional prestigious office location. It has, for many years, been the home of professional service firms (accountants, lawyers and property advisors), finance institutions, banks and marketing professionals. The

buildings are a mix of distinguished classical buildings and more recent development in the 1960s and 1970s. Many of the buildings have a very attractive character but require continual investment to ensure the space is attractive to potential occupiers. If upgraded the heritage buildings on South Mall have potential to attract small- and medium-sized office users interested in a prestigious office building of character. The later 20th century buildings have larger floorplates but also need to be refurbished to meet modern standards. The City Council recognises that there are relatively high levels of vacancy on the street, particularly above first floor level and is actively exploring ways of improving this by considering development models, architectural feasibility and finance issues.

The City Council will seek to promote the retention of office uses in South Mall in order to provide suitable office space for small- to medium-sized business. Ground floor uses on the street should support the office district and its business profile and should ensure the conservation of heritage assets and ensure proper access to upper floors is maintained. The preferred use at ground floor level will be retail office. Non-offices uses at ground floor level, such as restaurants, will only be open for consideration in the part of the street east of Morrison's Street on the south side and east of Beasley Street on the north side (as these areas form a book-end to the street and have the potential to interact with nearby public spaces), where it can be clearly shown that they would support the primary office uses and do not detract from heritage assets or the character of the street. Non-office uses on upper floors of heritage buildings will be open for consideration where they do not have a negative impact on the area or on the heritage asset. Uses that will be considered favourably in this circumstance are residential, hotel or serviced accommodation.

Objective 13.10: *City Centre Office Development:*

It is the objective of Cork City Council to support office development within the City Centre by:

- a) Facilitating the development of an expanded office quarter, including large floor plate office development, on suitable sites in the eastern end of the City Centre, and extending into Docklands as shown in Figure 13.1; and in other suitable sites in the Commercial Core Area and City Centre Retail Area, subject to the need to respect the character and profile of the City Centre. The Cork City Council will work

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- with other public agencies and the private sector to bring forward office developments in these areas;
- b) Supporting the development of supported space for start-up and grow-on businesses in suitable buildings in the City Centre by working with other public and private sector stakeholders;
 - c) Seeking to promote and enable the retention of office uses in South Mall in order to provide suitable office space for small- to medium-sized businesses in this premier office location (as outlined in 13.27 and 28);
 - d) Implementing environmental improvements and measures to improve transport and access to the City Centre as outlined in Chapter 5.

Chapter 16: Development Management:

Section 16.82: Cafés/Restaurants:

The positive contribution of cafés and restaurants and the clusters of such uses to the vitality of the city is recognised. The following (but not limited to) shall be considered in assessing applications for cafés/restaurants:

- The effect of fumes, hours of operation, and general disturbance on nearby amenities and residents;
- Traffic implications resulting from the proposed development including any parking requirements;
- Waste storage facilities;
- Adequate and safe delivery areas;
- Any proposed advertising/lighting is suitable and unobtrusive. Any advertising/signage should be removed on the cessation of operation of the business.

9.0 ASSESSMENT

From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Impact on the amenity of neighbouring properties
- Appropriate assessment
- Other issues

These are assessed as follows:

9.1 The Principle of the Proposed Development:

9.1.1 The proposed development site is located in an area zoned as 'City Centre Retail Area' with the stated land use zoning objective 'To provide for the protection, upgrading and expansion of retailing, in particular higher order comparison retailing, as well as a range of other supporting uses in the City Centre retail area'. Within these areas it is the stated policy of the Development Plan to prioritise retailing, although it should be noted that this is not intended to exclude other land use types such as residential, hotels, offices and cultural / leisure facilities etc. which complement the retail function of the CCRA and that promote the vibrancy of the City Centre. In this respect I would draw the Board's attention to Section 13.12 of the Development Plan which states that the objective is to ensure that the City Centre retains its primacy as the commercial and employment heartland of Cork City and that although the City Centre Retail Area (CCRA) will be the priority location for comparison retail development, it will also serve to support a 'mix of uses which stimulate activity and develop the vibrancy of the City Centre'. The Development Plan also emphasises that the aim is to make the City Centre Retail Area a fusion of shopping, leisure and entertainment in order to distinguish it from the more functional shopping centres in the suburbs thereby lending further credence to the proposed development of a restaurant at the subject site. In a wider context, support is also provided for the submitted proposal by reference to Section 13.9: 'City Centre Development Strategy' which states that outside of the key retail streets within the CCRA all other uses will be permitted. More specifically, Objective 3.13: 'Commercial Leisure' of the Development Plan states that the priority for 'major commercial leisure developments' will be within the City Centre with smaller restaurants also being 'open for consideration' whilst Objective 13.8: 'Leisure and Entertainment Uses' expressly states that the Planning Authority will support the development of leisure and entertainment facilities such as restaurants in the City Centre in order to facilitate the needs of residents and visitors and to contribute to the vibrancy of the area. Accordingly, I am satisfied that the overall principle of the proposed change of use accords with the relevant land use zoning.

9.1.2 In addition to the foregoing, given the site location within Cork City Centre in a wider area which is characterised by a variety of retail and commercial outlets, including shop units, offices, hotels, public houses and restaurants, I am similarly inclined to suggest that the proposed development is generally acceptable in principle.

9.1.3 Having established that the proposed development accords with the wider strategic objectives of the Cork City Development Plan, with particular reference to land use zoning and the promotion / development of the City Centre, it is necessary to consider the specifics of the subject proposal and the site context. In this regard I would advise the Board that office-based activities are acknowledged in the Development Plan as comprising a major part of the City Centre's business and employment base which contributes to the well-being of the City Centre by generating spend that supports shops, restaurants and service businesses. Indeed, the Plan proposes to develop the City Centre and the adjoining Docklands areas as the prime office locations in the city. However, it is of particular relevance to note that South Mall itself is traditionally known as Cork's premier office district and that Section 13.28 of the Development Plan seeks to promote the retention of office uses along South Mall in order to provide suitable office space for small to medium-sized business. More specifically, it is expressly stated in the Plan that *'Ground floor uses on the street should support the office district and its business profile'* and that *'The preferred use at ground floor level will be retail office'*. In this respect it should be noted that the former use of the subject unit as a bank can be considered to comprise a 'retail office' and thus the proposed change of use to a restaurant would be contrary to the aforementioned policy provision. Therefore, it is readily apparent that the proposed development contravenes Objective 13.10: *'City Centre Office Development'* of the Development Plan (as has been acknowledged by the applicant in the grounds of appeal) which states that it is an objective of the Planning Authority to support office development within the City Centre by *'Seeking to promote and enable the retention of office uses in South Mall in order to provide suitable office space for small-to medium-sized businesses in this premier office location'* (N.B. By way of further clarity, I would advise the Board that Section 13.28 of the Development Plan states that non-office uses (such as restaurants) will only be 'open for consideration' at ground floor level in certain locations along South Mall (i.e. east of Morrison's Street along the southern side of South Mall and east of Beasley Street along the northern side) and the proposed development site is not located within any of those areas).

9.1.4 With regard to the assertion in the grounds of appeal that the current Development Plan policy of seeking to retain South Mall in office use is unduly restrictive and thus is likely to have a long-term detrimental impact on the functioning and vibrancy of that street, particularly in light of the demand for modern office accommodation, in my opinion, it is not within the remit of the Board to critically analyse the merits or otherwise of Development Plan policy.

Instead, I would suggest that the subject proposal must be assessed having regard to current policy considerations and that the Development Plan review process as set out in statute would be a more appropriate forum through which to raise concerns as regards the specifics of policy formulation. Furthermore, having considered the provisions of Section 37(2)(b) of the Planning and Development Act, 2000, as amended, I am satisfied that there are no reasonable grounds whereby the Board could grant permission in this instance where the Planning Authority has decided to refuse permission on the grounds that the proposed development materially contravenes the Development Plan.

9.1.5 Accordingly, on the basis of the foregoing, it is clear that the submitted proposal, which involves the loss of a ground floor office unit along South Mall through the change of use of same to a restaurant, is in direct conflict with the present policy position of the Planning Authority as set out in Section 13.18 of the Cork City Development Plan, 2015 and thus materially contravenes the provisions of Objective 13.10(c) of that Plan which seeks to retain office uses on South Mall.

9.2 Impact on the Amenity of Neighbouring Properties:

9.2.1 With regard to the potential for the proposed development to have a detrimental impact on the amenity of neighbouring properties by reason of emissions, smells, cooking fumes etc., I am inclined to suggest that such matters could typically be addressed by way of condition, particularly in light of the site location within a mixed use area of the city centre where uses such as that proposed would typically seek to locate. Furthermore, in view of the proliferation of other late-night entertainment / leisure establishments in the surrounding area, which include a number of restaurants, public houses and hotels, I would suggest that the overall impact of the proposed development on the wider amenity of the area would be somewhat limited.

9.3 Appropriate Assessment:

9.3.1 Having regard to the nature and scale of the development under consideration, the nature of the receiving environment, the availability of public services and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

9.4 Other Issues:

9.4.1 Overall Design and Layout:

9.4.1.1 The proposed development involves a number of elevational changes to the existing building, including the removal of the existing ATM ope from the front (South Mall) elevation and its replacement with a new window construction in addition to the erection of various signage and lighting. In this regard, I am inclined to suggest that the reinstatement of the front window onto South Mall will serve to restore the overall character of this classically designed building (notwithstanding that it is not a protected structure and is not located in an Architectural Conservation Area) and that the specific details of any signage and lighting can be satisfactorily addressed by way of condition in the event of a grant of permission.

9.4.1.2 Similarly, the installation of a suitable grease trap / interceptor at an appropriate location prior to the discharge of wastewater from any cooking / food preparation areas to the public sewerage system can be addressed as a condition of any grant of permission.

9.4.2 Fire Safety Concerns:

9.4.2.1 Matters pertaining to compliance with the fire safety requirements of the Building Regulations are considered to be beyond the scope of this appeal.

10.0 RECOMMENDATION

Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

Reasons and Considerations:

1. Having regard to the planning policy and development objectives applicable to the site as set out in Paragraph 13.28 and Objective 13.10(c) of the Cork City Development Plan, 2015-2021 which seek to promote and enable the retention of office uses at ground floor level in South Mall in order to provide suitable office space for small to medium sized businesses in this premier office location, it is considered that the proposed development would materially contravene the objectives of the

Plan and would be contrary to the proper planning and sustainable development of the area.

Signed: _____

Date: _____

Robert Speer
Inspectorate