



An  
Bord  
Pleanála

## Inspector's Report PL29S.247547

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<b>Development</b>	Amalgamation of 2 units into 1 unit; change of use to café; shopfront and works (A Protected Structure).
<b>Location</b>	22-23 Temple Bar, Dublin 2
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2997/16
<b>Applicant(s)</b>	Ardstone Value Partners Fund
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Thomas Heneghan Moussa Bouguerra
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	12 <sup>th</sup> January 2017
<b>Inspector</b>	Rónán O'Connor

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## 1.0 Site Location and Description

- 1.1. The application site is located on the corner of Bedford Row and Temple Bar and comprises of two no. three storey buildings with restaurant/take-away at ground and basement level and residential above. The buildings are protected structures. The site lies within a Conservation Area.
- 1.2. The surrounding area is a mix of commercial and residential uses.

## 2.0 Proposed Development

- 2.1. The proposed development will consist of the amalgamation of 2 units into 1 unit, change of use to café, shop fronts and works (A Protected Structure).

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant permission with conditions. Conditions of note include:

- Condition 2 requires the work to be carried out under the supervision of an architect or conservation expert.
- Condition 3 requires submission of a Conservation Methodology and Specification.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- Request for further information in relation to (i) services/facilities/ventilation to be provided (ii) revised plan to omit intervention into the service well (iii) revised signage and information related to shopfront.
- Further information was submitted which was considered satisfactory.
- The recommendation was to grant permission subject to conditions.

#### 3.2.2. Other Technical Reports

Conservation Officer – Recommends conditions.

Drainage – recommend conditions

### **3.3. Prescribed Bodies**

Transport Infrastructure Ireland – No observations.

### **3.4. Third Party Observations**

- 3.4.1. The Planning Authority received 4 letters of objection. The issues raised are covered in the grounds of appeal.

## **4.0 Planning History**

- 4.1.1. Relevant planning history in relation to this site and neighbouring sites is set out below.
- 4.1.2. 23 Temple Bar - Ref PL 29S.225565 (3961/07) - Split decision - Granted Air Conditioning Units. Refuse Awnings to front elevation and freezer motor. Reasons for refusal related to the facilitation of an unauthorised use and impact on residential amenity.
- 4.1.3. 23 Temple Bar - 3981/02 Grant retention permission for shopfront.
- 4.1.4. Nos. 5-6 and No. 7, Crampton Quay, Crampton Buildings - 2548/16 - Grant Permission the amalgamation of the two existing retail units at basement and ground floor levels into one retail unit measuring 341 sq m; and associated works (Protected Structures).

## **5.0 Policy Context**

### **5.1. Development Plan**

#### **5.1.1. Dublin City Development Plan 2016-2022**

The site is zoned Z5 - Land-Use Zoning Objective Z5: - This allows for mixed-use development within the City Centre.

Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Policy CHC2 - To ensure that the special interest of protected structures is protected.
- Policy CHC4 – To protect the special interest and character of all Dublin’s Conservation Areas
- Policy CHC5 – To protect Protected Structures and preserve the character and the setting of Architectural Conservation Areas.
- Policy CEE12 –To promote and facilitate tourism as one of the key economic pillars of the city’s economy – This supports the increase in tourist facilities including cafes and restaurants
- Section 16.29 – Restaurants- Provides guidance for the consideration of restaurant proposals.
- Appendix 24: Protected Structures and Buildings in Conservation Areas.

## 5.2. Natural Heritage Designations

None

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal, as put forward by the appellants (one of whom is the owner of the adjacent restaurant) can be summarised as follows:

- Impact on the character of Temple Bar as a result of the introduction of a multi-national outlet
- Loss of an active frontage and activity in the evening and night time/lack of consideration of opening hours
- Loss of two fine grain units and vertical alignment
- Loss of approximately 20 jobs
- Lack of detail in relation to the impact on the basement well between Abrakebara and La Gondola/impacts of construction.

## 6.2. Applicant Response

- Appeals are replicas of each other
- Appeals are vexatious and should be dismissed
- End users are not for determination of the Planning Authority
- Change of use would be in keeping with the character of the area, zone and Dublin City Council policies
- Sufficient level of evening and night time activity in the area
- No material alterations to the shopfronts are proposed
- Appearance will be similar to neighbouring units
- Proposed use will create job opportunities
- Report submitted from Downes Associates in relation to civil and structural engineering issues
- No evidence of a well at basement level/Works will not exacerbate drainage/flooding issues.

## 6.3. Planning Authority Response

No further comment to make.

## 6.4. Observations

None

## 6.5. Further Responses

Further responses were received either directly from, or on behalf of, both of the appellants. The issues raised are summarised below:

- No evidence submitted by the application to support the claim that appeals are vexatious.
- Current units contribute to the character of the area.

- No evidence submitted by the appellant to support claim that character will be preserved.
- Refers to articles relating to loss of independent retailers in, and commercialisation of, Temple Bar
- Café and restaurant are different land uses as the hours of operation are different
- No effort to agree later opening hours
- Works to shopfronts would result in the erosion of the vertical emphasis of the units
- Loss of jobs is a serious concern
- Impacts of construction and flooding issues

## 7.0 **Assessment**

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of the proposed development
- Design and Conservation
- Residential Amenity Impact
- Appropriate Assessment
- Other Issues

### 7.2. **Principle of the proposed development**

7.2.1. No objection to the principle of a café use was raised by the Planning Authority. I note that, under the Z5 zoning, a restaurant is a permissible use. The zoning matrix does not specifically state café is a permissible use but within the Development Plan the terms café and restaurant are used in conjunction with each other. Appendix 21 of the City Development Plan classes a café and a restaurant as the same use. Section 16.29 'Restaurants' states that the positive contribution of café and restaurant uses and the clusters of such uses to the vitality of the city is recognised.

Policy CEE12 supports in the increase in tourist facilities including cafes and restaurants.

- 7.2.2. Section 16.29 of the Development Plan requires consideration of the impact on the vitality and viability of shopping areas. Given the change is from a restaurant use to a café the overall level of café/restaurant provision remains the same, and there is no loss of retail uses.
- 7.2.3. I do not consider any change in opening hours would impact materially on the vitality and viability of the area. While the opening hours may not be as late as the existing restaurant and takeaway, there are sufficient late opening uses in the immediate area to ensure the area retains its vitality and viability in the evening hours.
- 7.2.4. Having regard to the above, I consider the principle of a café to be acceptable in this instance.

### 7.3. **Design and Conservation**

- 7.3.1. The main interventions of note are to the shopfronts of the two units. The existing timber frames, panels and doors are to be retained and repainted, save for a door at No. 22 which is to be replaced. The overall vertical alignment of the shopfront is maintained as a result. The signage and lighting at both units is to be replaced.
- 7.3.2. I note that previously awnings were refused at No. 23 (Appeal Ref 29S.225565), as it was considered that they facilitated an unauthorised use, leading to noise and disturbance. This now no longer appears to be the case and this issue was not raised by the Planning Authority during their assessment of this application. There was no design objection to these awnings. As such I can find no reason to object to this element of the proposal.
- 7.3.3. There is no objection raised to the internal alterations, including the internal stairs to basement and partition wall. This intervention is necessary to allow for a modern commercial operation. I note the existing accommodation at basement level is very cramped and there is a little historic fabric of note.
- 7.3.4. Relevant conditions can be imposed to ensure that the work is carried out in a sensitive manner and to a high standard.



7.3.5. Subject to the relevant conditions, I consider that the interventions are sensitive to the protected status of the buildings and result in an improvement in the appearance of the shopfronts.

#### **7.4. Residential Amenity**

7.4.1. The nature of a café use is not one that would result in detrimental impacts such as noise or disturbance. The hours of operation may be different from that existing. However, I do not consider that the proposal would have any greater amenity impact over and above that existing.

#### **7.4.2. Other Issues**

7.4.3. The applicant has submitted a report from Downes Associates (dated 30.11.16) which considers structural and drainage issues associated with the application. This concludes that current drainage problems on the neighbouring site (1 and 2 Bedford Row) are historical and that the proposed works will not exacerbate these issues. It is further noted that there is no evidence of an existing well at basement level.

7.4.4. Having regard to the evidence submitted, I do not consider that any existing drainage or flooding issues at neighbouring sites would be exacerbated by this proposal.

#### **7.5. Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the proposed development within a serviced area and separation distance 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 the conservation objectives of any European site.

### **8.0 Recommendation**

8.1. Grant permission

### **9.0 Reasons and Considerations**

9.1. Having regard to the central city location, the zoning objective for the site and the policies of the current Dublin City Development Plan 2016-2022, it is considered that

the proposal would not be detrimental to the integrity of the Protected Structures, nor would the proposals detract from the character or setting of the Protected Structures. Furthermore, it is considered that the proposed development would not seriously injure the residential or visual amenity of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 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 22<sup>nd</sup> day of September 2016.

**Reason:** In the interest of clarity.

2. All works to the Protected Structure, shall be carried out under the supervision of a qualified professional with specialised conservation expertise.

**Reason:** To secure the authentic preservation of the Protected Structures and to ensure that the proposed works are carried out in accordance with best conservation practice.

3. A Conservation Methodology and Specification shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This document should include the following:

(a) a methodology for making good the extent of the repair and proposed repair specification to the rear and front brick façade.

(b) details of the proposed service and storage areas.

(c) A schedule of condition and associated repairs of the original shopfronts including glass type, frames and internal linings and details of replacement windows.

(d) A schedule of condition and associated repairs of the historic plasterwork and clarification of all restoration works, thermal and damp upgrading works.

. The development shall be carried out in accordance with this plan, and the relevant works shall be restricted to conservation, consolidation and presentation works.

**Reason:** To ensure that the historic structures are maintained and protected from unnecessary damage or loss of fabric.

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

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

- 5 No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the buildings unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

- 6 The proposed awning shall be of a plain colour or neutral canvas type and no advertising apart from the name of the premises shall be used on the awning.

**Reason:** In the interest of visual amenity.

- 7 Site development and building works shall be carried out only between the hours of 0700 to 1800 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 property in the vicinity.

- 8 The developer shall comply with the requirements set out in the Codes of

Practice from the Drainage Division, the Roads and Traffic Department and the Noise and Air Pollution Section of Dublin City Council.

**Reason:** To ensure a satisfactory standard of development.

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Rónán O'Connor  
Planning Inspector

17<sup>th</sup> February 2017