



An
Bord
Pleanála

Inspector's Report PL29S.247565

Development	Minor amendments to previous permission 4071/09 (2270/15, 3055/15, 4323/15, 2258/16) includes part off-licence and sale of hot food.
Location	1-4 Windmill Lane, 1-3 Hanover Street East & 19-20 Creighton St, Dublin 2.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3629/16
Applicant(s)	Hibernia REIT Co. Ltd and Trinity General Two DAC.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Shannon Guzman, Josephine O'Reilly and Marie Flynn
Observer(s)	None
Date of Site Inspection	21 st of February 2017
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The subject development scheme (area c.0.4ha) comprises the south west quadrant of a larger city block bounded by Sir John Rogerson's Quay, Creighton Street, Hanover Street East and Lime Street. The relevant quadrant which is a roughly shaped square has street boundaries onto Hanover Street East, Creighton Street and Windmill Lane.
- 1.2. The site forms part of a larger urban block within the ownership of the applicant, which includes the existing Hanover Building to the east, the Observatory Building to the north-east and the site to the north with frontage to Sir John Rogerson's Quay. The surrounding area has a mixture of commercial and office uses with residential and apartment developments. This includes the two storey period properties with basement level on the western side of Creighton Street.
- 1.3. The parent planning permission for the mixed use development was issued in 2009 – Reg.Ref.4071/09 refers and subject to subsequent amendments. Construction is currently underway and is well advanced on the site in relation to the permitted mixed use development. That part of the building which is the subject of the current application is located on the southern corner of Creighton Street at the junction with Hanover Street East and Townsend Street and is currently under construction.

2.0 Proposed Development

- 2.1.1. This is for minor amendments to Reg.Ref.4071/09 (previously amended under Reg.Ref: 2270/15, 3055/15, 4323/15 and 2258/16) for a mixed use development at a 0.4223 hectare site at 1-4 Windmill Lane, 1-3 Hanover Street East and nos.19-20 Creighton Street, Dublin 2.
- 2.1.2. The proposed development relates to the permitted retail unit of 376sq.m at ground floor with frontage to Creighton Street and Hanover Street East and seeks permission for a part off-license use ancillary to the permitted retail use and for the sale of hot food for consumption off the premises ancillary to the permitted retail use, and all associated and ancillary amendments.
- 2.2. The application form provides that the total site area is 4,223sq.m, the floor area of the buildings proposed to be retained within the site is 520sq.m (no.19 Creighton

Street). No new buildings or demolition works are proposed within the subject application. The total floor area of the proposed development as granted in the previous permissions is 16,749sq.m. The total non-residential floor area is 6539.8sq.m. The proposed plot ratio is 4.0 and the proposed site coverage is 81%.

- 2.3. A Site Layout Plan, Floor Plans and Elevations have been submitted. The Floor Plans show colour coded the proposed retail and off-license areas.
- 2.4. John Spain Associates Planning & Development Consultants have submitted details relevant to the subject application.

3.0 **Planning Authority Decision**

3.1. **Decision**

- 3.1.1. On the 20th of October 2016, Dublin City Council granted permission for the proposed development subject to 6no. conditions. These conditions are generally standard relative to infrastructural and construction issues.

Condition no.2 provides the following: *The development shall comply with the conditions attached to the previous permission. Reg.Ref.4071/09, 2270/15 and 3055/15, save as amended by this permission and the conditions attached.*

3.2. **Planning Authority Reports**

3.2.1. Planner's Report

This has regard to the locational context, planning history and the submissions made. They noted that the proposed development relates to the permitted retail unit of 376sq.m at ground floor level. They considered having regard to the proposal that the provision of a relatively small area within the permitted retail unit for the selling of alcohol is considered reasonable. Also, that the selling of hot food from the retail unit is also considered reasonable. They noted that this is not a change of use from retail unit to take-away. They considered that the proposal constitutes a relatively minor addition to the previously approved mixed use scheme. Also that the proposal is in accordance with the DCDP 2011-2017 and the proper planning and sustainable development of the area.

3.3. Other Technical Reports

3.3.1. Engineering Department Drainage Division

They recommended that the developer comply with all the drainage conditions of the previous grant of permission Reg.Ref.no.2270/15.

3.3.2. Transport Infrastructural Ireland

They note that the proposed development falls within the area set out in the Luas Red Line Docklands Extension Section 49 Levy. They recommend that any permission include a Section 49 Luas Red Line Docklands Extension Levy.

3.3.3. Iarnród Éireann Infrastructure

They provide a number of observations relative to health and safety issues in the context of the operation of the railway and recommend a condition be included.

3.4. Third Party Observations

A petition has been signed by a number of local residents expressing concern regarding a number of issues, these include:

- Anti-social and criminal behaviour
- Parking - insufficient
- Unsociable opening hours
- Litter
- Lack of justification for this proposal

4.0 Planning History

4.1.1. The Planner's Report and the Report submitted with the application by John Spain & Associates provide details of the planning history relevant to the site. This is also referred to in the Public Notices i.e. Reg.Refs. 4071/09 as amended by 2270/15, 3055/15, 4323/15, 2258/16 and the more recent history is summarised as follows:

Reg.Ref.4071/09 – This was refused by the Council but subsequently granted subject to conditions by the Board in Ref. PL29S. 237295, for the Demolition of existing warehouse buildings, retention of No. 19 Creighton Street and the

construction of a mixed use development consisting of a 4 to 6-storey office building including setback penthouse levels with roof terraces at 3rd floor level, ground floor café and associated roof top plant; a 4 to 5-storey residential building with a retail space at ground floor level and residential development at upper floors around a raised 1st floor level landscaped courtyard providing 15 no. residential units; an ESB substation and all associated works, etc. This is referred to as the parent permission.

Reg.Ref.2270/15 – Permission was granted subject to conditions for minor amendments to Reg.Ref.4071/09 to structural grid and core layout and associated elevational and internal layout amendments. The proposed amendments resulted in a minor increase in gross office floor space of the development. There were no amendments to the permitted residential or retail floor space.

Reg.Ref.3055/15 - Permission granted subject to conditions by the Council and subsequently by the Board Ref.PL29S.245667 refers for minor amendments to Reg.Ref. nos. 4071/09 and 2270/15 for a mixed use development. This comprised the relocation of the permitted substation from a location on Hanover Street East (as permitted under 2270/15) to ground floor level of no.19 Creighton Street with access from a previously permitted service access corridor in Creighton Street. This also consisted of other ancillary works.

Reg.Ref.4186/15 – Permission granted subject to conditions by the Council for minor amendments to Reg. Ref.4071/09 (as previously amended under Reg. Ref.2270/15) for a mixed use development. This consisted of amendments to the entrance canopy and glazed façade to foyer at Windmill Lane and Creighton Street, signage and other amendments and ancillary works and was subsequently granted on appeal to the Board - Ref. PL29S.246245 refers.

Reg. Ref.4323/15 – Permission granted subject to conditions by the Council for minor amendments to Reg. Ref.4071/09 (as previously amended under Reg. Ref.2270/15) for a mixed use development. These amendments to comprise of a change of use of part of permitted ground floor office space to the eastern end of Windmill Lane to retail use and associated subdivision to create a retail unit, and

associated amendments to the Windmill Lane (south) elevation to create a shopfront, including insertion of windows and doors, all associated and ancillary works.

Reg.Ref.2258/16 – Permission granted subject to conditions by the Council for minor amendments to Reg.Ref. nos. 4071/09 (as previously amended under Ref.Ref. 2270/15 and 3055/15) for a mixed use development. This was to comprise the provision of extensions to provide additional office floorspace.

Reg.Ref.2686/16 – Permission granted subject to conditions and subsequently by the Board in Ref. PL29S.246877 for minor amendments to Reg.Ref. nos. 4071/09 (as previously amended under Ref.Ref. 2270/15, 3055/15 and 4323/15) for a mixed use development. This permission includes regard to the subject retail unit and is referred to in the Assessment below.

Reg.Ref.3538/16 – Permission granted for omission of existing vehicular access ramp to the basement of the Hanover Building from Hanover Street East etc. This included part change of use of ground floor of the Hanover Building from retail use to gymnasium. This is relative to the existing Eurospar premises and is referred to in the Assessment below.

Copies of these decisions are included in the History Appendix of this Report.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

This is the pertinent plan. As shown on Map 'E' the site is within the Z5 City Centre land use zoning where the objective is: *To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.*

Permissible uses include mixed uses such as retail, off-licence and part off- licence, restaurant and take-away etc.

Section 7.6 provides the Retail Policies and Objectives. Policy RD5 relates specifically of Off-Licences. Policy RD9 has regard to fast food outlets.

Section 16.24 refers to criteria relative to Takeaways.

Section 16.28 refers to criteria relative to Off-Licence and Part Off-Licence.

The site is also within the Zone of Archaeological interest. None of the buildings on the site are included in the Record of Protected Structures.

5.1.1. Other issues

It is noted that the subject site is located outside the administrative area of the recently adopted North Lotts and Grand Canal Dock Planning Scheme for the Dublin Docklands Strategic Development Zone (SDZ). The site is also located outside the area of the George's Quay LAP.

6.0 The Appeal

6.1 Grounds of Appeal

6.1.1. A Third Party Appeal has been received from local residents Shannon Guzman, Josephine O'Reilly and Marie Flynn. This is a joint appeal and their grounds of appeal include the following:

- This proposal cannot be taken in isolation and must be taken in conjunction with the applicant's permission for the Hanover building under plan no. 3538/16 outlining the applicant's intention to remove the current convenience store from the Hanover Building and completely commercialise a building which is currently zoned Z5 mixed use.
- Creighton Street is a residential street which is zoned Z2: *To protect and improve residential conservation areas* in the DCDP 2011-2017. It is the last street of low rise residential housing centred on the City Quay. Of the 18 houses on the street, 10 date back to the 1870's. The majority are 2 storey over basement terraced houses.
- The developer has not consulted with local residents as to how this site could be developed for the betterment of the community in line with the Z2 residential/conservation objective.
- They have regard to Section 17.29 of the DCDP 2011-2017 and note that the following must be considered for such an application: the number and

frequency of such facilities in the area, the amenities of properties in the vicinity of the residential area.

- They feel that due consideration was not given to their concerns by the P.A., and in particular the adverse impacts of this application on the residential amenities of the Creighton Street area.
- They are concerned that no conditions have been included in relation to opening and closing times for the off licence sales and take away facility etc. that may affect residents.
- Since 2007 residents have been subject to anti-social behaviour associated with the current location of the convenience shop in Hanover Building and Windmill Lane and they provide details of such.
- This includes that the local residents have been targeted by criminal activity as drug addicts from outside the area are congregating on City Quay riverside seating and using the current shop facilities in the Hanover Building.
- They are concerned about parking reduction and interference with residents parking in this pay and display area.
- They also are concerned with the overflow of delivery and waste management trucks for the units that are constantly outside the permitted hours for the units in the Hanover Building.
- They already have problems of litter from the take away facilities in the retail unit in the Hanover Building. They are concerned that the current proposal will worsen this.
- They are concerned that 7am to 10pm opening hours are excessive for local residents and impact adversely on their residential amenity.
- There has been criminal activity in the area which they provide is associated with the opening of the current convenience store in the Hanover Building, and they provide details of this. They note a series of events that have been reported to and enclose a letter from Pearse Street Garda Station. Also to Local Elected Representatives and Business Owners.

- They consider that the combination of the public seating area on City Quay riverside and a convenience store with off-license and hot food sales license which serves this type of clientele are significant contributing factors attracting these individuals to the area and encouraging them to settle there.
- They are concerned for their loss of privacy, residential amenities and safety note they are liaising with all relevant stakeholders about this matter.
- They are aware that off sales and hot food sales are common business practice for the modern convenience stores, however the geographic location of such a store must be taken into consideration. They are concerned that there is no proper management in place.
- They note that in the immediate vicinity, Tesco Express, Centra and a number of other shops all sell alcohol and hot food and have the right to refuse admissions policies.
- The subject site is significantly closer to the residential properties in Creighton Street and they consider that the proposed change of use will lead to a big increase in anti-social behaviour if approved.

6.2. Applicant Response

6.2.1. John Spain Associates response on behalf of the applicants includes the following:

- Off licence use is permissible in principle under the Z5 zoning objective and will assist in ensuring a tenant is attracted to the unit.
- The proposal will assist in providing a dynamic mix of uses within the mixed use development, sustaining the vitality of the inner city both by day and night.
- They consider that the issues raised by the Third Party appeal are primarily management/policing rather than land-use planning issues. Also a number of concerns raised do not relate directly to the subject appeal.
- This proposal is for ancillary off-licence and sale of hot food for consumption off the premises and as such there will be no material increase in footfall or impact on the surrounding amenities.

- Ancillary off-licence use and ancillary hot food for consumption off the premises are widely accepted within convenience retail units of this nature.
- As per Reg.Ref. 3538/16 for the change of use of the existing Eurospar store to a gym use, it is clearly the intent that the retail use and associated ancillary off-licence, in this unit will cease to operate in the near future. Therefore, there will be no net gain of off-licences in the area. They note that they are prepared to accept a condition in this regard.
- The applicant is making a very significant investment in the area and they provide details of this relative to the overall development scheme. Through these measures there will be a significant improvement in the public realm.
- They have regard to Management and Policing issues and refer to a letter from the Garda Síochána in this respect. They confirm restrictions on the sale and display of alcohol within the premises.
- They share the views of local residents relative to the need to improve surveillance and to decrease anti-social behaviour in the area.
- They provide that the applicant has worked pro-actively to seek to develop and maintain a relationship with local residents.
- There will be no impact on surrounding amenities by way of increased footfall or increase in traffic or parking.
- The disposal of litter is a management issue and waste storage facilities will be allocated in the basement area. The operator will be required to comply with the relevant legislation in respect to waste management.
- They provide that opening hours i.e 7am -10pm will not be altered from as conditioned in their previous permission.
- The proposed development will be professionally managed as part of the overall operation of the convenience retail outlet. The applicant will retain overall responsibility for estate management and has indicated they will impose tenancy conditions on the occupier relating to security and management.

- They consider that the geographical location is appropriate, having regard to the Z5 land-use zoning. Also that the current proposal will contribute to the dynamic mix of land uses in the area and have a positive impact on the amenity of the surrounding area. Fig.2 shows the subject site prior to redevelopment.
- They consider that the proposed development is fully in accordance with the relevant planning policy context and the proper planning and sustainable development of the area.

6.3. **Planning Authority Response**

6.3.1. There has been no response from Dublin City Council to the grounds of appeal.

7.0 **Assessment**

7.1. **Principle of Development and Planning Policy**

7.1.1. It is considered that the main issue that arises for the determination of the Board in this appeal case relates to the acceptability or otherwise of the change of use of part of the permitted retail floor area in this mixed use development, to an ancillary off-licence use and ancillary hot food takeaway use at this location. I note the Council's recommendation and conditions of their permission, the Third Party stated concerns and the First Party response and have regard to the documentation submitted. It needs to be ascertained whether such a proposal would be sustainable and in the interests of proper planning and development in this location.

7.1.2. The application site is within the City Centre Z5 land-use zoning of in the DCDP 2016-2022 which is supportive of mixed use development. Section 14.8.5 includes: *While a general mix of uses e.g. retail, commercial, residential etc. will be desirable throughout the area, retail will be the predominant use at ground floor on the principal shopping streets.* The principle of mixed use including retail development has been established in the previous permissions. It is noted that part off-license and take-away are permissible uses within this zoning. Section 16.28 refers to the criteria for part off-licence and Section 16.24 relative to takeaways. As shown on Map E of the DCDP there is a development site opposite on the corner of Creighton Street and

Townsend Street, which is zoned Z3 i.e: *To provide for and improve neighbourhood facilities*. However, it is also proximate to the Z1 residential and Z2 residential/conservation zoning, which includes the majority of the opposite side of Creighton Street and therefore the suitability of the proposed usage needs to be considered in the context of transitional zone areas as per Section 14.7, where it is necessary to avoid developments that would be detrimental to and protect the amenities of residential properties in the area.

- 7.1.3. The Third Party are concerned about the locational context relative to the impact on the residential amenities of the area and consider that the proposed uses will have an adverse impact on their quality of life due to increased traffic, anti-social behaviour, noise pollution, insufficient parking, littering, loitering and associated devaluation of residential property prices.
- 7.1.4. The First party provide that the permitted retail use with the proposed inclusion of an ancillary off-licence use and ancillary sale of hot food for consumption off the premises is consistent with the Z5 zoning objective and will provide a dynamic mix of uses, which interact with each other, creates a sense of community and which sustains the vitality of the inner city both by day and night. They consider that the concerns raised by the Third Parties are management and policing issues rather than land use planning issues.
- 7.1.5. While the principle of the development is acceptable within this land-use zoning the impact on the residential amenities of the area need to be considered. Regard is had to background relative to the extensive planning history of the site, to the documentation submitted and to the issues raised, including by the Third Parties in this Assessment below.

7.2. **Background**

- 7.2.1. A letter has been submitted with the application, by John Spain Associates providing a background to the case. It is noted that planning permission was granted by ABP (Reg.Ref.4071/09 – ABP Ref. PL29S.237295 in April 2011) for a development comprising of the demolition of the existing warehouse buildings, retention of no.19 Creighton St. and the construction of a mixed development comprising retail/office/residential units and associated works. An extension of the duration of

the life of this permission has been granted under Reg.Ref 4071/09x1, due to expire on the 3rd of June 2021.

- 7.2.2. This development has been the subject of numerous amendments, including under Reg.Refs. 2270/15, 3055/15, 4323/15 and 2258/16. These are referred to in the Public Notices and in the planning history section above. It is provided that none of these amendment permissions are relevant to the retail unit that is the subject of this application.
- 7.2.3. It is noted that Reg.Ref. 2686/16 which also relates to minor amendments to the parent permission has recently been granted subject to conditions by the Board Ref. PL29S. 246877 relates. This is to comprise the amalgamation of two no. retail units at ground floor level (199sq.m and 376sq.m) to provide one retail unit, and minor increase in size of the unit by extending the façade to the west towards Creighton Street (i.e the amalgamated unit would be 632sq.m gross). This appears to relate to the subject retail unit. The description also includes a number of other ancillary works and amendments such as the provision of retail storage area in the basement, amendments to car parking spaces, minor amendments to the western elevation of the amalgamated retail unit to provide an additional fire exit door to Creighton Street, the omission of one no. permitted two bed residential apartment i.e a reduction from 15 to 14 residential units.
- 7.2.4. This permission shows the floor areas relative to the block and appears to be the most relevant to the subject application. It is noted that there are residential apartments above, which are not part of the current application. The Inspector considered that the proposal relative to the retail unit would be compatible with the amenities of the area, provided the hours of operation and delivery are restricted by conditions. It is of note that condition no.8 of the Board's permission includes a restriction on the hours of opening of the retail unit.

7.3. **Regard to proposed usage**

- 7.3.1. The proposed development relates to the permitted retail unit of 376sq.m at ground floor with frontage to Creighton Street and seeks permission for an off license use ancillary to the permitted retail use and for the sale of hot food for consumption off the premises ancillary to the permitted retail use. The subject drawings show the

floor area as permitted and proposed. No external alterations are proposed in this application.

- 7.3.2. The display area for alcohol for sale (c.36sq.m) is shown as a square area within the retail floor space, hatched orange, and therefore does not exceed 10% of the total floor area, which is as recommended for a part off-license in Section 16.28 of the DCDP 2016-2022. It is provided that alcohol for sale will be primarily displayed in this area, at the rear of the unit away from windows and doors, behind a stairs and will not be easily visible from outside the retail unit. They provide that it is in a position which will be easily seen by staff and the point of sale will be the check-out area, its location being subject to tenant fit out. In this respect it is provided in the detail submitted that a convenience retail operator is the most likely tenant and an ancillary off-licence use and ancillary use for the sale of hot food for consumption off the premises, are required in order to attract a tenant.
- 7.3.3. It is provided that the sale of hot food for consumption off the premises is an ancillary and standard element of such permitted convenience retail use. Such sale will take place from a single hot food counter within the retail unit. The area relating to the sale of hot food for consumption off the premises will comprise c.5% of the total gross floorspace of the unit and therefore is ancillary to the primary usage of the convenience retail unit.
- 7.3.4. There is only one entrance/exit door for the unit, with the two others being emergency/fire exit doors only. The entrance/exit door is located on Creighton Street, close to the corner with Hanover Street East, and is not opposite any of the doors of the residential properties on the west side of Creighton Street. The former residential buildings opposite are now boarded up. It is provided that the use of only one access point will allow for easier management of the access to the unit by the future tenant. It is also provided that there will be no advertising for the sale of alcohol on the façade/frontage of the premises.
- 7.3.5. Therefore, having regard to the issues raised it is recommended that if the Board decide to permit that it be conditioned that as per the details submitted, both of the uses are ancillary to the primary use which is as retail convenience store.

7.4. Rationale for proposed use

- 7.4.1. It should be noted that the applicant has applied under a separate application (Reg.Ref.3538/16) for a change of use of the existing Spar at the adjacent to a gym use. It is noted that this application included the change of use of the ground floor (c.1,140sq.m) of the Hanover Building from retail use to gymnasium use. Permission has been granted subject to conditions by the Council for this application. This is part of a wider refurbishment and upgrade of the Hanover Building. I visited the existing Spar on the site visit and noted that it serves as a larger convenience store, with deli counters serving hot and cold take-away food and small Insomnia café area with seating inside the premises. There is also an off-licence area located in a central position in the store. It has separate access to Hanover Street East and to Windmill Lane, and is located further from Creighton St junction and opposite the residential local authority apartment development.
- 7.4.2. The First Party provide that it is the applicant's intent that the retail use, and associated part off-licence, in the Spar unit will cease in the near future. Therefore, they provide that there will be no net gain in the number of part off-licences in the area. They also include that if considered necessary, the applicant is willing to accept a condition to the planning permission that the off-licence use at the subject unit shall not be implemented until such time as the existing off-licence use in the Hanover Building has ceased. In order to prevent the proliferation of such off-licence uses in the area, it is recommended that if the Board decide to permit that such a condition be included.

7.5. Impact on the Character and Amenities of the Area

- 7.5.1. A number of concerns have been raised by the Third Parties and this includes that the retail unit with permission for off licence and hot food sale will lead to increased traffic, insufficient parking, anti-social behaviour, noise pollution, littering, loitering and associated devaluation of residential property prices. There is concern that an off licence and a fast food takeaway will invariably give rise to anti-social behaviour and loitering, creating a negative impact on residential amenity. It is of note that much has been raised in view of the location and the proposed use about anti-social and criminal behaviour. However, while regard is had to the locational context, the

investigation of such behaviour is not within the ambit of planning and is more a matter for other authorities such as the Garda Síochána.

7.5.2. The First Party response provides that a central management system is proposed to be put in place by the applicant, which will ensure passive and active surveillance in this area of the City. These measures will be implemented in addition to the surveillance and security measures in place by the individual retailer. It is submitted that the necessary procedures to ensure anti-social is minimised will be undertaken.

7.5.3. There is concern that fast food take away outlets are associated with litter which causes a negative impact on the resident's environmental surroundings and also creates a greater possibility of the presence of vermin. In response it is provided that the disposal of litter is a management issue and the applicant will liaise with the proposed operator of the unit to ensure that the retail unit and surrounding area will be kept free from litter. Waste storage areas will be allocated in the basement and the proposed operator of the premises will be required to comply with the relevant legislation in respect of waste management. It is recommended that if the Board decide to permit that a condition regarding control of litter and waste management be included.

7.6. **Regard to Opening Hours**

7.6.1. It is also noted that the properties in Creighton Street are terraced with on street steps and basement areas and this is not a gated community such as Windmill Lane apartments and Pearse House Flats complex. This premises is closer to these properties, than the existing Eurospar. It is also of concern that an off licence can remain open till 10pm and a fast food take away can remain open in the early hours. The Third Parties consider that the possibility of these longer opening hours will impact on resident's quality of life and will create loitering. They note that restrictions on opening hours have not been included in the Council's grant of permission. In this respect Condition no.8 of the Board's recent permission (Ref. PL29S. 246877 relates) relative to the retail use is noted. This is as follows in order to safeguard the residential amenities of the area: *The retail use shall operate between the hours of 07.00 to 22.00 on Mondays to Fridays (inclusive) and between the hours of 09.00 and 21.00 on Saturdays and Sundays. Deliveries shall not be made before 07.00 on weekdays and 09.00 at the weekend or after 16.00 daily.*

7.6.2. It is noted that the First Party response provides that these opening hours as restricted by this condition will not be altered by a grant of permission for ancillary off-licence and ancillary sale of hot food for consumption off the premises. They provide that the proposed uses, given their ancillary nature to the permitted retail uses, and the fact that they do not increase commercial floorspace on the site, will therefore not give rise to any increase in noise in the area.

7.7. **Justification issues**

7.7.1. It is also provided that there is a lack of justification for the proposed change of use in that these facilities are already provided in other convenience stores in the area. The Third Party provide the names of such facilities in the area which include Tesco Express, Centra, Fresh, Eurospar etc. all of which sell alcohol and hot food and all have the right to refuse admission policies. In this respect as noted in the Rationale Section of this Assessment above, it is proposed that this application will only provide for the off-licence use, depending its cessation the change of use proposed at the adjacent Spar premises (Reg.Ref.3538/16 relates). Therefore, it will serve to provide a replacement of such facility rather than an additional facility in the area. Also that there are no other such facilities within 200m of the premises.

7.7.2. It is noted that a retail use is permitted at this location and that it is considered that the provision of a part off-licence, ancillary to the main retail use, will not have any impact on residential amenities. The First Party provide that although ancillary to the primary retail use, the provision of a part off-licence within a convenience retail store is an important part of the range of goods in a modern convenience unit, and contributes to the range of goods available to those who avail of the convenience unit. They consider that this will add to the attractiveness of the unit. The need for proper management has been noted above.

7.8. **Access and Parking**

7.8.1. Parking for residents is already restricted due to building works and there is concern that parking will be further restricted for residents and customer parking required throughout the day and evening for both these retail outlets. There is concern about loading and unloading relative to the use and the impact this will have on parking

and traffic in the area. In response it is provided that as the proposed usage is ancillary to the main use as convenience store, which is to provide a replacement for the existing store, that no increase in parking is envisaged.

7.9. Appropriate Assessment

- 7.9.1. The site is not located within or near to a Natura 2000 site. It is a fully serviced urban site. The current proposal is for a change of use this site and so it poses no appropriate assessment issues. Having regard to the nature and scale of the proposal, no appropriate assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. Having regard to the documentation submitted, the Assessment made and to my site visit, it is recommended that permission be granted subject to the conditions below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the Dublin City Development Plan 2016–2022, the planning history of the site and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposal would be in accordance with the Z5 objective for the site, would not seriously injure the visual and residential amenities of the area or of property in the vicinity and 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 and by the further plans and particulars received by An Bord Pleanála on the 2nd day of December, 2016, 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 terms and conditions of the extant parent and amending permissions granted for the development under planning register reference numbers 2686/16 (An Bord Pleanála appeal reference PL29S.246877), 3538/16, 3055/15 (An Bord Pleanála appeal reference PL29S.245667), 2270/15 and 4071/09 (An Bord Pleanála appeal reference PL29S.237295) shall be complied with, unless they are modified by the terms and conditions of this permission.

Comment [AB1]:

Reason: In the interest of clarity.

3. The developer shall comply with the following:
 - (a) The part off-licence use at the subject unit shall not be implemented until such time as the existing off-licence use in the Hanover Building has ceased (Reg.Ref.3538/16 refers).
 - (b) the subsidiary alcohol sales area to the convenience retail shop shall be ancillary to and limited to the area shown on drawing number 2011 submitted to the planning authority on the 1st day of September, 2016,
 - (c) there shall be no advertising of the sale of alcohol products on the facade/frontage of the premises,
 - (d) there shall be no display of alcohol products or advertising of the sale of alcohol products on or near both the entrance and the windows.

Reason: In the interest of orderly development.

4. The proposed takeaway use shall be ancillary to the primary use as convenience retail shop and shall as provided in the details submitted with the application, not exceed 5% of the total gross floorspace of the unit.

Reason: In the interest of orderly development.

5. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

6. A plan containing details for the management of waste and recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

Angela Brereton,
Planning Inspector

23rd of February 2017