



An
Bord
Pleanála

Inspector's Report 29S 247569.

Development	Removal of signage, reduction in and relocation of flagpoles, new awnings over window and doors, new external doors (replacing existing ground floor doors, New door and window surrounds, new signage reflecting new branding, removal of light fittings and replacement with architectural fittings and, installation of an ATM.
Location	13-18 Fleet Street, Dublin 2.
Planning Authority	Dublin City Council.
P. A. Reg. Ref.	3586/16
Applicant	Sabden Ltd.
Type of Application	Permission.
Decision	Grant Permission.
Type of Appeal	Third Party
Appellant	The Palace Bar. (William Aherne)
Date of Site Inspection	20 th February, 2017.
Inspector	Jane Dennehy.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.1. Decision	4
3.2. Planning Authority Reports	4
3.3 Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Applicant Response	7
6.3. Planning Authority Response	8
7.0 Assessment.....	8
8.0 Recommendation.....	10
9.0 Reasons and Considerations.....	11
10.0 Conditions	12

1. Site Location and Description

- 1.1 The site of the proposed development is that of the Temple Bar Hotel incorporating bars, a night club and restaurants. It is a five storey over basement building which comprises Nos 13-18 Fleet Street which a block surrounded by Aston Place to the west, Adair Lane to the north, Price's Lane to the East and Fleet Street to the south. The main frontage and entrances are on the Fleet Street frontage. Another hotel and the Palace Bar are at Nos 19-20 and No 21 to the east and hotel, bar and retail development are located along Fleet Street to the west. A Tesco convenience store is located in the former ESB public offices on the opposite side of Fleet Street.

2. Proposed Development

- 2.1 The application lodged with the planning authority indicates proposals for various works to the front, south facing façade comprising:
- Removal of the existing signage and replacement with new signage in individual mounted lettering for Buskers, The Temple Bar Hotel and Toast (restaurant) to reflect new branding.
 - Erection of three projecting blade signs ("Buskers on the Ball", "Buskers Bar" and "Toast")
 - Reduction from five flagpoles to two flagpoles and erection of three new flags over the entrance to the hotel. existing flagpoles and erection of flagpoles.
 - Installation of two ("Victorian drop arm") awnings with displayed lettering over the windows and doors to the Temple Bar Hotel. Retention of the existing awning box and replacement with similar awning sheet over the external seating area of Buskers incorporating lettering "Live Music/Sports Bar" and "B" logo.
 - Changes to window and door openings incorporating polished black granite fixed glazing panels and timber doors.
 - Removal of existing light fittings and replacement light fittings.
 - Installation of an Automatic Teller Machine.

3. Planning Authority Decision

3.1 Decision

By order dated, 17th October, 2016, the planning authority decided to grant permission subject to conditions.

- Condition No 2 contains a requirement for omission of the projecting flag poles and blade signs for reasons of visual amenity.
- Condition No 3 contains a requirement for a sample of the granite finish to be submitted for agreement with the planning authority for reasons of visual amenity.
- Condition No 4 contains a requirement that the entrance to 'Toast' restaurant not be used as an entrance to the basement nightclub for reasons of protection of amenity.
- Condition No 5 contains a requirement that the ATM not issue receipts. For reasons of control of letter.
- Condition No 8 removes exempt entitlement relating to signs and projecting elements.

3.2 Planning Authority Reports

3.2.1 Planning Reports

The planning officer indicated satisfaction with the proposed development indicating the view that the works are generally an enhancement but that the replacement of the existing unauthorised signs and flagpoles, which are unauthorised should be excluded from a grant of permission by condition.

3.3 Third Party Observations

An objection was submitted by the Palace Bar, a property to the east side of the appeal site. (The appellant party). Concerns are expressed about unauthorised use of entrance doors for access to the basement nightclub and about the number of entrances.

4. Planning History

4.1 P. A. Reg. Ref. 3047/12: Permission was granted for replacement of existing double doors, (one a former window) used as a nightclub entrance /exit with two pairs of glazed double doors with a fanlight over solely for exit from the night club. Under Condition 3 the access points were confined for use as an exit/fire escape only.

4.2 P. A. Reg. Ref.2028/11/ PL 29S 239563: The planning authority decision to refuse permission for retention of conversion of a window to a door to serve as entrance to the nightclub in the basement was upheld following first party appeal for reasons relating to negative impact on amenity due to noise and nuisance and material contravention of the Z5 zoning objective.

4.3 RL 2769 / P. A. Reg. No: 0144/10 It was determined that a replacement of a window by a door constitutes development and is not exempt development following referral of a Question in this regard to the Board. This determination confirmed decision the prior decision of the planning authority.

5. Policy Context

5.1 Development Plan.

5.1.1 The operative development plan is the Dublin City Development Pan, 2016-2022 according to which the site location is within an area subject to the zoning Z5: *“to consolidate and facilitate the development of the central area*

and to identify, reinforce and strengthen and protect its civic design character and dignity”.

5.1.2 Shopfront and business premises signage is addressed in section 16.24.

5.1.3 The site location is a short distance to the east of the area within the O’Connell Street Architectural Conservation Area.

6. The Appeal

6.1 Grounds of Appeal

An appeal was received from William Aherne of the Palace Bar on 14th November, 2016. The objection is to the decision to grant permission for replacement of existing emergency exit doors with a new entrance to the restaurant. (Toast) According to the appeal:

- It is incorrect to describe the subject doors as “an existing entrance door” because these doors are authorised for emergency exit purposes only according to Condition No 3 of the grant of permission under P. A. 3047/11. The condition has been ignored.
- Condition No 4 of the planning authority decision is similar to Condition No 3 of the prior grant of permission. The ownership has changed a number of times and the concern is the continuation of the use of the entrance as an entrance to the basement. Instead of solely as an emergency access.
- The restaurant is accessible within the hotel so no new entrance is unnecessary at the proposed location. It would bring the total number of entrances to three and this is excessive and has negative impact on the visual amenities and character of the streetscape.
- The entrance would lead to intensification use of the building.
- The new ATM would also lead to intensification of use at a prominent location at the entrance to the Temple Bar. This is contrary to the

zoning objective. Overall the development proposed materially contravenes Zoning Objective

6.2 Applicant Response

A submission was received from John Spain Associates on 13th December, 2016 according to which:

- The reference to “existing entrance door on the plans is to the existing door on the south elevation which is used as an emergency and fires exit for the late bar and the applicant is fully aware of, and abides by the terms of Condition No 3 of the grant of permission under P. A. Reg. Ref. 3047/11. The purpose of the current proposal is to change from the emergency and fire exit for the late bar to a new entrance to improve the façade and utilise existing established doorways as a new entrance to “Toast” restaurant. This is made clear in the application and was accepted by the planning authority subject to inclusion of a condition omitting use as entrance to the sports bar. As the entrance is for the restaurant the previous concern about impact on the amenities of the area due to queueing for the nightclub is no longer an issue. Use as an entrance to the restaurant is entirely appropriate, will animate the street and enhance the street frontage elevation.
- There is no evidence to support the Appellant’s claim as to breach of Condition No 3 of the grant of permission under P. A. Reg. Ref. 3047/12 by using the doors as an entrance to the nightclub. Condition No 4 is sufficient to clarify the permitted use of the doors. The exit from the Sports Bar/Late Bar from Ashton Place.
- Each application should be considered on its own merits the current proposal being for use of the doors as entrance for the restaurant. There is different nature use of the entrance as a restaurant and there is no negative impact or potential for large crowd to congregate at the entrance.

- The proposal is an upgrade and unified treatment for the façade which is welcomed by the planning officer. No additional doors are proposed from the Fleet street façade the proposal being for change of use and purpose of existing doorways and the proposed use as a restaurant entrance is appropriate providing for animation and enhancement of the street frontage.
- The proposed ATM is designed in accordance with the guidance in the Dublin City Development plan, 2011-2017 and deemed to be in accordance with the development plan and proper planning and sustainable development of the area.
- The proposed development does not intensify the use of the building in which the restaurant is an established use which enhances the streetscape.

6.3 Planning Authority Response

There is no submission on file from the planning authority.

7. Assessment

7.1 The objections in the appeal relate to the use of existing doors as a direct entrance off the street for the restaurant and to the installation of an automatic teller machine. The issues considered central to the determination of the decision and considered below are as to:

material contravention of a condition attached to a prior grant of planning permission and;

impact on the amenities of the public realm in the immediate environs of the site location.

7.2 Material Contravention of a condition attached to a prior grant of permission:

The doors subject of the application have the benefit of a previous grant of permission under P. A. Reg. Ref.3047/12 the use of which is restricted to use as an emergency exit and escape route from the basement premises which is used as a

late bar/sports bar/nightclub under Condition No 3. The current proposal is for use of these doors as an entrance directly off the street for a ground floor restaurant, ("Toast") as an alternative route to the restaurant within from the main hotel entrance. The argument in the appeal that the proposed development is in material contravention of Condition No 3 of the grant of permission P. A. Reg. Ref.3047/12 is not accepted. The use of the doors as an entrance to the restaurant as proposed is materially different to use as an exit from the nightclub previously proposed under P. A. Reg. Ref.3047/12 in terms of impact on amenities of the public realm in the immediate vicinity. The inclusion of Condition No 4 among the conditions attached to the planning authority decision is reasonable for the purposes of clarity ensuring that there is no conflict with Condition No 3 of the prior grant of permission. Furthermore, it should provide assurance to all parties that use of the entrance for the basement nightclub remains unauthorised and would be open to enforcement proceedings.

7.3 Impact on amenities of the public realm in the immediate environs of the site location.

7.3.1 It is considered that the proposed development is consistent with the achievement of the objectives for the for the central city Z5 zoned area which provides for facilitation of appropriate development, consolidation of land-use and strengthening of civic design character. Aesthetically, with the exception of projecting signage and flagpoles, the proposed development provides for an enhanced presentation of the façade which is in a relatively prominent position. By virtue of being a restaurant entrance, congregating on the street would be minimal unless the restaurant incorporates a fast food element for which permission for change of use would be required. Use of the entrance would be relatively staggered or intermittent and it would be reasonable to assume that significant queuing outside on the street would not occur. As such it would appear that the use of the doors for direct access and egress to the restaurant would not result in adverse impact on the public realm or adjacent properties and businesses. The frontage of Nos 13-18 is that of five plot widths which have the capacity to carry the three separate entrances and the Paddy

Power unit at the eastern end unit. The provide for the three distinct businesses, live and active street frontage while at the same time retaining an adequate degree of homogeneity reflective of the branding.

7.3.2 The appellant party also objects to the proposal for installation of an ATM on the façade indicating concerns about intensity of development, presumably attributable to increased activity and congregating in immediate environs. This argument is not accepted and it is considered that the location is appropriate and a particular benefit in terms of public safety, convenience and the amenities of the area is that concerns as to unauthorised parking need not arise as the street is a pedestrian priority area.

7.3.3 As regards de novo consideration of the other elements of the proposed development, the planning authority decision to accept the proposed development with the exception of the omission of flags plies and blade signs (omitted by condition) is supported. The exclusion, under Condition No 5 of the planning authority decision of consent to the issue of receipts by the ATM is unreasonable and in this regard, it should be borne in mind that receipts are not issued by the machine unless requested by customers.

7.4 Appropriate Assessment.

Having regard to the location of the proposed development which is for a single dwelling unit adjacent to existing residential development on zoned lands in an area which is serviced. it is considered that no appropriate assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8. Recommendation

In view of the foregoing, it is recommended that the planning authority decision to grant permission be upheld and that permission be granted. Draft reasons and considerations and conditions are set out below

9. Reasons and Considerations

Having regard to the planning history, the site location and the zoning objective: Z5: *“to consolidate and facilitate the development of the central area and to identify, reinforce and strengthen and protect its civic design character and dignity”* within the Dublin City Development Plan, 2017-2022 it is considered that the proposed development, including proposed entrance to the restaurant (Toast) off the street and the proposed Automatic Teller Machine would not result in excessive intensity of use or negative impact on the amenities or character of the public realm in the immediate vicinity and would be in accordance with the development objectives for the area and the proper planning and sustainable development of the area.

10. Conditions.

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application 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 the 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. Flags, flagpoles and projecting signs shall not be permitted unless authorised by a prior grant of permission. The proposed flags, flagpoles and blade signs shall be omitted in entirety

Reason: In the interest of protection of the visual amenities and architectural character of the built environment. and the visual amenities of the area.

3. Details of the materials, colours and textures of all the materials and finishes, including a sample of the black granite finish shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the protection of the public realm

4. The entrance to the restaurant shall not be used as a public access or exit for the basement and shall be solely used as an access and exit directly on to the street for the ground floor restaurant agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity and the amenities of the public realm.

Jane Dennehy
Senior Planning Inspector
21st February, 2017.