



An
Bord
Pleanála

Inspector's Report PL29S.247728.

Development	Inclusion of restaurant use within an approved wine bar and (3364/14), extend kitchenette, internal alterations and 3 no awnings at ground floor on a Protected Structure.
Location	10 St Stephen's Green North, D 2.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3802/16.
Applicant(s)	SLJ Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party.
Appellant(s)	SLJ Ltd.
Observer(s)	1. Amanda and Susannah Jackson, 2. The Stephens Green Hibernian Club.
Date of Site Inspection	23 rd of March 2017.

Inspector

Karen Hamilton.

1.0 Site Location and Description

- 1.1. The subject site is a three storey over basement, mid terrace Georgian townhouse which faces directly onto the Renaissance Square of St Stephens Green, Dublin City Centre. The building is currently occupied by a restaurant at basement level (Il Posto), a wine/ spirit bar at ground and first floor level and office use on the second floor. The townhouse is set behind the adjoining building line. There is currently a range of uses within the vicinity of the site including retail, restaurant, hotel etc.
- 1.2. The building is a protected structure and is located within an Architectural Conservation Area and the Scheme of Special Planning Control for Grafton Street and Environs (2013).

2.0 Proposed Development

- 2.1. The proposed development may be summarised as follows:
 - Extend current kitchenette on the first floor from 4.2m² to 12.7m² and relocate 2no toilets from first floor to ground floor within the existing rear annex,
 - Change of use from part wine bar (3364/14) to part restaurant at ground floor level,
 - 3no awnings on ground floor elevation over the existing two windows and entrance door.

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission for reasons of negative impact on a protected structure and an Architectural Conservation Area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planners reflects the decision to refuse permission and refers to the following:

- The Environmental Health Officer has raised concerns over the lack of information in respect of the extraction system in relation to the likely sound levels and the discharge.
- The Conservation Officer has referred to the intensification of use on the site, particular an additional kitchen facility within this prominent protected structure.

3.2.2. Other Technical Reports

Drainage Section – No objection subject to conditions.

Conservation Officer- Recommendation for refusal.

Environmental Health Officer- Request for further information.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Two observations were received, one from the DART underground Office which had no objection, the other was from an observer to the grounds of appeal and the issues raised are addressed by the observer's response to the grounds of appeal.

4.0 Planning History

29S.246412 (3751/15)

Permission granted for a period of three years for retention of a kitchenette at ground floor and planning permission for a dance floor of 20.5m². A condition restricting the use of the dance floor from 12.00- 02.00 at the weekends and the control of odour emissions from the ducting and ventilation.

29S.245743 (3470/15)

Permission granted for a period of two years for the retention of an outdoor seating area of 3.7m location at the bottom of the steps and associated with the wine/ spirits bar. A condition was included restricting of the use of the area to 4 no seats.

3364/14

Permission granted to vary Reg. Ref 2984/14 from wine bar use to allow the sale of cocktails and spirits bar within the ground floor area.

2984/14

Permission granted for change of use from retail to wine bar at and associated internal and external works to upgrade a protected structure.

2410/14

Permission refused for a change of use from retail to wine bar at the ground floor and change of use from office to wine bar on the first floor and change of use from office to storage on the second floor for reason of inadequate information contained in the conservation strategy and inappropriate intensification of use in a prestigious site.

5.0 Policy Context

5.1. **Architectural Heritage Guidelines for Planning Authorities, 2004.** Development guidelines for Protected Structures and Areas of Architectural Conservation.

- **Section 3.6.9-** Zoning and Land Use.

Guidelines for Planning Authorities- Retail Planning- DECLG,2012

- **Chapter 5-** Retail and Design Quality shopfront

5.2. **Dublin City Development Plan 2016-2022**

The site is zoned as Z5 "City Centre" where it is an objective *"To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity"*

- **RD1:** To have regard to the *"Retail Strategy for the Greater Dublin Area 2008-2016"* and the *"Guidelines for Planning Authorities- Retail Planning- DECLG,2012"* when assessing retail-related planning applications.
- **RD 13:** To affirm and maintain the status of the city centre retail core as the premier shopping area of the State, affording a variety of shopping, cultural

and leisure attractions and having regard to relevant objectives set out in the Retail Core Framework Plan (2007).

- **CEE 12:** Use of restaurants to promote tourism within Dublin.

Shopfront

- **Policy RD15:** To require a high quality of design and finish for new and replacement shopfronts, signage and advertising. Dublin will actively promote the principles of good shopfront design as set out in the Dublin City Council's Shopfront Design Guidelines.

Dublin City Council's Shopfront Design Guidelines.

- Fascia signage: Only the name and street number of the shop should be on the fascia panel. Box signs are unacceptable and individually mounted letters are appropriate and should not be greater than 40cm. Illumination shall be discreet.
- Security Shutters: Roller shutters shall be located behind the window display.

CHC08: *"To prepare schemes for Areas of Special Planning Control, where deemed desirable and appropriate, having regard to statutory need of the city."*

Scheme of Special Planning Control for Grafton St and Environs (2013)

- The requirement for high order shopping proposals with restrictions on exemptions in the Planning Regulations for certain uses.
- Key Objective 2: To achieve an appropriate mix and balance of uses in Grafton Street by controlling new uses and promoting higher order comparison retail outlets, to provide for a high quality shopping area.
- Part 1: Land use.
- Section 3.3.11 Canopies- If considered necessary, they shall be traditional in style, open ended and in a muted tertiary colour.

5.3. The site is located within an Architectural Conservation Area (ACA) therefore the following policies apply:

- **Policy CHC4:** Conservation Areas: Development will not harm the features of special interest in the conservation areas or involve harm to loss of traditional fabric. Proposed uses will be promoted

The site is located within a Zone of Archaeological Impact therefore the following polices apply:

- **CHCO 9 & 10:** Protect and promote the archaeology within Dublin.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted from an agent on behalf of the applicant and occupant of the wine bar and the issues raised may be summarised as follows:

- The amended proposal to the Board includes the removal of the 3 no awnings on the façade, removal of the proposal for deep-frying in the kitchen and the use of the rear roof light and new ventilation system in the kitchen.
- The polices of the development plan, the zoning on the site and the information contained in the guidance for the area of special planning control for Grafton St and Environs allows for the use of a restaurant at this location.
- Dublin City Council did not fully assess the impact of the proposal.
- A list of planning history has been included and attention is drawn to permission 29S.245743 which upheld a retention proposal of kitchenette and dance floor for a period of 2 years.
- A report from Dalton Acoustics indicates the increase in noise levels during the Christmas period is not from the dance floor but rather the adjoining Hibernian building and the taxis along the street. The music on the site is controlled by a limiter which is sealed and locked.
- The proposed seating on the site is for 26 and is ancillary to the main use whereas the seating at Il Posto is for 60, therefore the impact will be minimal.
- The servicing to the site is to the rear along Joshua Street and is the same as Il Posto as it is the same landlord.

6.2. Planning Authority Response

No response was received from the planning authority.

6.3. Observations

Two observations were received from the proprietor of the basement restaurant (Il Posto) and the occupants of the adjoining building (Stephens Green Hibernian Club). The issues raised may be summarised as follows:

- The method of acoustic monitoring is questioned and it is considered appropriate that continuous noise monitoring is located in the basement space. The reason for the increase in the noise is not from the Hibernian club which has been in operation for many years.
- There has been continuous non-compliance with planning on the site and there is noise and disturbance.
- Duplication of services in the same building has a negative impact on the protected structure and the character of the area.
- An increase in another use will cause a saturation of signage.
- The seating area to the front of Il Posto has been in use for over 20 years.

7.0 Assessment

7.1. The following assessment has regard to the revised plans submitted with the applicant's grounds of appeal and includes the removal of 3 no awnings along the facade of the building and removal of the proposed fryer in the kitchen, removing the need for an external ventilation system and use of an internal ventilation system. Observations on the grounds of appeal where received from the third-party objector. The main issues of the appeal can be dealt under the following headings:

- Principle of development
- Built Heritage
- Impact on the amenity of the surrounding area
- Appropriate Assessment

Principle of development

- 7.2. The proposed development relates to the inclusion of a restaurant area within an existing wine bar and an increase in the size of the existing kitchen to accommodate a wider menu. An Italian restaurant currently occupies the basement of No 10 St Stephens Green and there is an office on the second floor. The reason for refusal was based on the impact of the ventilation/ extraction associated with the restaurant use and the inappropriate intensification of services with the protected structure. The grounds of appeal have submitted new information, including the removal of deep frying from the menu, therefore removing the need for external works for the proposed extraction method.
- 7.3. The site is located in an area zoned as Z5 city centre where restaurant use is a permissible use. Section 16.29 of the plan provides guidance on the appropriate development of restaurants with consideration for noise, disturbance, traffic, waste and restriction on frequency within Category 1 or 2 streets. This section of St Stephens Green is not part of a Category 1 or 2 street. The site is also within the Scheme of Special Planning and Control for Grafton Street and Environs 2013 which includes land use controls to prevent the overconcentration of non-retail uses within the plan area. The subject site is currently in use as a wine / spirits bar.
- 7.4. Observations received in relation to the grounds of appeal refer to the decision of the planning authority, in particular, the report from the Conservation Officer and the intensification of services within the same building having an adverse impact on the protected structure. I note the current use of the site as a wine bar has permission for and operates a small kitchenette serving a restricted menu at present. The increase in the kitchen area is 8.2m² and will be located in an area currently used as toilets. I note the report of the Conservation Officer and the subsequent reason for refusal refers to the intensification of services, namely and additional restaurant use within the building and the need for an additional kitchen. The policies and objectives of the national guidance, development plan or the Scheme of Special Planning Control for Grafton St and Environs does not preclude the use of the site as restaurant. Reg. Ref. 29S.246412 permitted the retention of the kitchenette on the site for a period of three years and I note the report of the inspector refers to the general acceptance of the principle of the kitchenette in association with the main commercial use.

7.5. Based on the current use on the site, the policies of the development plan and the guidance in the special planning control scheme, I do not consider the extension of kitchen area and the additional seating for the restaurant would have a significant negative impact on the character of the protected structure. I consider it reasonable to include a condition that the proposed development is ancillary to the current wine/spirits bar and linked to the previous grant of permission, this will prevent conflicting uses on the site. Therefore, subject to complying with other planning requirements as addressed in the following sections, the principle of the proposal is acceptable.

Built Heritage

7.6. No 10 St Stephens Green North is a protected structure located within an Architectural Conservation Area (ACA) and the Scheme of Special Planning and Control for Grafton Street and Environs 2013. The applicant has removed the proposal for 3 no awnings on the façade, therefore alterations to the protected structure include the removal of the existing toilets, extension of the kitchen and inclusion of “skyflow” extraction fan in the roof of the rear annex. The reason for refusal and the report from the Environmental Health Officer refers to the lack of information on the proposed extraction system and the likely impact on the protected structure from the ventilation/ extraction system. I note the amended proposal submitted by the applicant includes the removal of the deep frying unit from the kitchen and a proposal for a vertical jet fan with carbon filters and I consider there has been sufficient information submitted to assess the impact of the proposed development. I have assessed the impact of the proposed works on the protected structure below.

7.7. Alterations to the kitchen: The proposed kitchen is located within a modern annex extension to the rear of the building which is accessed from the rear service lane, Joshua Lane, and is not visible from any of the surrounding main streets. I note there are no features of interest in current kitchenette or the toilets to be demolished. The proposed “skyflow” extraction fan has a diameter of 900mm and protrudes 0.5m above the current roof in the annex. I do not consider this alteration is a significant amendment to the roof of the annex. Therefore, based on the modern addition and location of the annex to the rear and the scale of the works proposed for the

extraction fan, I do not consider the proposed development will affect the character and setting of the protected structure.

- 7.8. **Signage:** The guidance in the Dublin City Council's Shopfront Design Guidelines require individual letters, discreet lighting and does not accept box signs on the outside. In addition, section 12.3 of the national guidance requires alterations to the façade including signage shall respect the character and setting of the protected structure and ACA. An observation received refers to the saturation of the building with more signage. No signage details have submitted I note there are internal roller blinds on all windows on the façade onto St Stephens Green. Based on the prominent location of the site within a historic area, I consider it reasonable to require a condition restricting advertisement on the site.

Impact on amenity of surrounding area.

- 7.9. The noise from the proposed extraction fan/ ventilation system was raised as an issue by an observer to the planning application. The submitted documentation in the grounds of appeal includes an attenuation system in the fan to reduce noise levels between 30-35dha. I note condition No 5 of 29S.246412 required the fitting of a noise attenuators to any opening for ventilation purposes. I consider the proposed extraction system and the level of noise acceptable within this commercial premises, therefore, I do not consider the proposed development would have a negative impact on the surrounding area.

Appropriate Assessment.

- 7.10. 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. I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the zoning objective, the nature and scale of the proposed development, the current use on the site and the policies of the current Dublin City Development Plan it is considered that subject to compliance with the conditions below, the proposed development would not seriously injure the amenities of the area or have a negative impact on the character and setting of the protected structure and the Architectural Conservation 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 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 proposed restaurant use shall be ancillary to the main wine/spirits bar as permitted under Reg Ref. 29S.246412.

Reason: In the interest of clarity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

4. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area

Karen Hamilton
Planning Inspector

23rd of March 2017