



An
Bord
Pleanála

Inspector's Report 29N.247738

Development

Replace the existing halo illuminated banner sign with a new banner sign of similar proportions incorporating a new halo illuminated clock and halo illuminated Penney's sign, below the second floor of Penneys, a protected structure.

Location

47 Mary St, Dublin 1.

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3829/16

Applicant

Primark (trading as Penney's)

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

First Party against condition

Appellant

Primark (trading as Penney's)

Date of Site Inspection

21st March 2017

Inspector

Dolores McCague

1.0 Site Location and Description

1.1. The site is located along Mary St, an extension of Henry Street, the busiest shopping street in the capital city. Penney's store and headquarters occupies two large adjoining buildings along the north of the street. There are two shopfront signs and a single projecting sign on the extensive frontage to Mary St; in the context of quite a lot of signage along Henry Street and less along Mary St.

2.0 Proposed Development

2.1. The application is for permission to replace an existing projecting sign in its existing location below the second floor of Penneys, Mary St. The existing sign is a halo illuminated banner sign. The replacement is a new banner sign of similar proportions incorporating a new halo illuminated clock and halo illuminated Penney's sign. The lettering of the existing sign would be reduced in scale and the area of sign reduced, to allow for the addition above of the area devoted to a clock face.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to conditions including condition no. 2:

The banner signage depicting Penney's shall be non illuminated. The clock may be halo illuminated.

Reason: In the interests of visual amenity and to protect the integrity of this important protected structure.

3.2. Planning Authority Reports

3.2.1. Planning Report

Zoned Z5: to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity,

45-47 Mary Street, Penneys Department Street (a) facades on Mary St and Jervis Street (excluding modern fascia and signage) ; (b) Roof Structures including dome and decorative copper clad stairs enclosures – Ref 5063; are protected structures.

Mary Street is a Category 2 street as set out in the Retail Strategy of the Dublin City Development Plan 2016-2022.

Planning history is given.

Development Plan policies referenced as relevant – 14.8.5 City Centre Zone 5; 11.1.5.3 – protected structures policy; 17.24 – retail; and Shopfront Design Guide.

The assessment states that the proposal is acceptable in principle within the zoning. 17.10.1 - works to protected structures, sets out criteria to be considered. The shopfront design states that in general projecting signs will not be permitted.

Reg. Ref. 2943/16 permitted the replacement of the existing banner sign with a new banner sign of similar proportions incorporating a new clock and Penney's sign below to the second floor. Condition 2 of this permission required the banner signage and the clock including the clock face and numerals to be non illuminated. This application is in effect a repeat application of 2943/16 and proposes a halo illuminated sign along with a halo illuminated clock. The description of the proposal states that permission is being sought to replace the existing halo illuminated banner sign. However, it is noted that this existing banner sign on the Mary Street elevation, which replaced an earlier sign, was approved in 2010. Condition no. 3 of that application (reg. ref. 3913/10) stated that the proposed sign should not be internally illuminated.

The current proposal again proposes to affix the clock within the dimensions of the existing banner sign, thus reducing the depth of the Penneys lettering on the sign to

accommodate the clock, which sits above. The sign proposed is exactly the same dimensions as the sign currently in situ. The current proposal, in the planner's opinion, would not add to the visual clutter at this location as there is no increase in the overall dimensions of the existing sign. Having regard to the planning history surrounding the sign at this location as detailed and the existing extant permission under reg. Ref. 2934/16, it is acceptable to grant permission subject to a condition being attached precluding the illumination of the banner signage in order to reduce the dominance of the large scale sign in the streetscape and to protect the integrity of this important protected structure.

3.2.2. Other Technical Reports

Conservation Officer – the local authority to satisfy themselves on the status of the current sign. Where approval of the projecting sign is confirmed and the replacement of the sign may be considered. The Conservation Officer notes that there is minimal adverse impact into the historic fabric based on the removal and replacement like for like. There is no requirement for further removal or upgrading of historic fabric to the main façade associated with the works.

Engineering Department Drainage Division – no objection.

4.0 Planning History

2943/16 permission granted for a replacement of the existing banner sign with a new banner sign of similar proportions incorporating a new clock and Penney's sign below the second floor of Penneys. Condition 2 states: the banner sign and the clock including the clock face shall be non-illuminated.

4226/15 DCC permission refused for the erection of a new external clock above the existing banner sign to the second floor of Penneys.

3681/13 permission granted for repairs to the copper dome and repointing of brickwork and repair and replacement of windows at 46 and 47 Mary St.

3428/13 permission granted for provision of linkages between the front and rear of the existing stores and the provision of office accommodation in the dome.

2372/12 permission granted for 3 external signs.

3913/10 permission granted for works associated with reopening of part of the first floor stock area as retail: relocate escalators, provide new escalators to first floor, refurbishment of existing retail floors of basement and ground, new services, conservation works as required to first floor, plant to inner roof, replace signage on all street facades, extension to staircase to third floor at rear.

0153/03 permission granted for works associated with the refurbishment of Penney's Stores at 47 Mary Street Dublin 1, with shopfronts facing onto Jervis St, a protected structure Ref 5116. No refurbishment works will involve the removal or alterations of any elements of historical significance. Refurbishment works consist of new shopfront windows, entrance doors and surround stone, new external Pennys corporate signage, and refurbishment of Basement and Ground retail floors, to link into new Ground Floor retail extension fronting onto Parnell Street; previously granted under planning permission Decision Order No. P5589.

1031/01 permission granted for removal of rear wall at ground floor, demolition of existing staircase from basement to ground floor level, demolition of existing service buildings, opening of temporary escape to Chapel Lane, removal of nib at 1st and ground level, blocking up of existing exits in rear wall, erection of temporary stud partition and changing rooms at ground floor and other minor alterations.

3119/00 permission granted for mixed retail, office and residential development in a six storey over basement building: consisting of an extension of 1742 sq m to Penney's at ground floor level plus service area for Penney's at ground floor level with access from Capel Lane; 10839 sq m of offices and 60 car parking spaces.

5.0 Policy Context

5.1. Development Plan

The Dublin City Development Plan 2016-2022 is the operative plan. The site is zoned Z5: to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity,

5.2. Natural Heritage Designations

None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal by Kiaran O'Malley & Co Ltd on behalf of the first party, includes:

- The appeal is in relation to condition no 2 which reads:

The banner signage depicting Penney's shall be non illuminated. The clock may be halo illuminated.

Reason: In the interests of visual amenity and to protect the integrity of this important protected structure.

- 0153/03 The existing Penney's banner sign was erected on foot of permission Reg. Ref. No. 0153/03 for refurbishment works (comprising new shopfront windows, entrance doors and surround stone, new external Penney's corporate signage and the refurbishment of Basement and Ground retail sales floor areas, to link into new Ground Floor retail extension fronting onto Parnell Street, previously granted under planning permission Decision Order No. p5589).

The approved signage includes the existing vertical halo illuminated Penney's banner sign at Mary Street. Dublin City Council's decision to attach condition 2 seems to have no regard to the planning status of the existing permitted halo illuminated signage.

- 4226/15 Dublin City Council (DCC) refused to grant permission on the grounds that the proposed development would detract from the appearance and character of the protected structure, would be visually discordant and would be a source of visual clutter in a Category 2 shopping street and contrary to section 17.10.1 of the development plan. The conservation report notes no objection.
- 2943/16 application for a modified proposal. This sought a revised banner sign where the clock is incorporated within a sign of the same dimensions as the existing sign. The Council granted permission but included a condition which states: *the banner signage and the clock including the clock face shall be non-illuminated. Reason: In the interests of visual amenity and to protect the integrity of this important protected structure.*
- Condition 2 of the subject decision authorises halo illumination of the clock element but prohibits the illumination of the name signage. The conservation report recommends a grant of permission for the entire sign. The condition nullifies the benefit of the permission.
- The first party is frustrated with the negative approach of the planning authority in relation to this modest signage proposal, particularly as the existing halo illuminated signage is authorised. No increase in the size of the sign is envisaged. The sign is the same height on the façade and uses the existing fixings. All that is involved is the inclusion of a clock within the permitted halo illuminated banner sign.
- The planning report refers to the *'existing banner sign on the Mary Street elevation, which replaced an earlier sign'*, having been approved in 2010. *'Condition no. 3 of that application (reg. ref. 3913/10) stated that the proposed sign should not be internally illuminated'*. This is incorrect. The existing sign is not authorised by reg. ref. 3913/10 and this was explained in the application cover letter.
- A compliance submission in respect of reg. ref. 3913/10 explicitly states that Primark is not proceeding with the new signage under this grant of permission because this signage would not have complied with condition no. 3. The correspondence (enclosed) appears to have been ignored in the

assessment. The approved signage includes the existing vertical halo illuminated Penney's banner sign at Mary Street. Dublin City Council's decision to attach condition 2 seems to have no regard to the planning status of the existing permitted halo illuminated sign.

- The planning assessment states that the sole reason for restricting the illumination of the replacement sign is that the Council considers that the existing halo illuminated banner sign is non compliant. They should have been aware of the planning history.
- The reason stated for the condition is - in the interests of visual amenity and to protect the integrity of this important protected structure. No evidence is presented that the replacement sign would have any impact on the visual amenity of the street or on the integrity of the protected structure. The existing approved banner sign is the same dimensions, materials, colour, height and utilises the same fixtures as the existing sign. There is no material change in the overall appearance or level of illumination.
- A favourable Conservation report is on file. This is consistent with earlier conservation reports on two previous planning applications. The existing halo illuminated sign is authorised under Reg Ref No. 0153/03 not Reg Ref No. 3913/10. DCC would almost certainly not have attached condition no. 2 if it had taken account of the correct planning status of the existing banner sign.

Attached to the grounds is a letter dated 10/01/12 from Jack Coughlan Associates to DDD Planning Department, regarding compliance with 3913/10, which includes:

Condition 3 Signage

The originally proposed new signage to the current Penney's standard is not being proceeded with as it would not comply with this condition. The existing 'halo' type signage is being retained save for change of font. Details of existing and proposed signage are attached.

A letter in response from DCC, dated 29th March 2012, agreeing to the changes to the lettering, is also attached to the grounds.

6.2. **Planning Authority Response**

The planning authority has responded to the grounds of appeal referring the Board to the planning report on the file.

6.3. **Board Correspondence (referral to Prescribed Bodies)**

The Board referred the appeal to Fáilte Ireland and the Arts Council. No observations were received.

7.0 **Assessment**

7.1. This appeal is in respect of condition 2 only and therefore, pursuant to Section 139 of the Act, having reviewed the grounds of the appeal, which is the only appeal received, I consider that it is not appropriate for the Board to determine the appeal as if it had been submitted to the Board in the first instance. I will therefore restrict my consideration of this case to condition 2, which has been appealed by the first party.

7.1.1. **Condition 2 states:**

The banner signage depicting Penney's shall be non illuminated. The clock may be halo illuminated.

Reason: In the interests of visual amenity and to protect the integrity of this important protected structure.

7.1.2. **Permission for Existing Sign**

The grounds of appeal states that the condition is based on an erroneous assumption that the existing banner sign relies on a 2010 permission whereas in fact it relies on a 2003 permission.

The existing banner sign is 5270mm long by 900mm in width and is halo illuminated.

The planning report refers to the existing banner sign as having replaced an earlier sign approved under 3913/10 (permission for works associated with reopening of part of the first floor stock area as retail: relocate escalators, provide new escalators to first floor, refurbishment of existing retail floors of basement and ground, new services, conservation works as required to first floor, plant to inner roof, replace signage on all street facades, extension to staircase to third floor at rear). The

permitted sign, on foot of a condition attached to the permission (no 3), should not be internally illuminated.

- 7.1.3. The ground of appeal includes a letter which accompanied compliance documents in relation to 3913/10, dated 29th March 2012. It states that the signage proposed is not being erected and instead it gives details of amendments to the existing sign which are included in the submission. *'The existing 'halo' type signage is being retained save for change of font. Details of existing and proposed signage are attached.'* The compliance response from DCC Planning and Development Department Planning Registry & Decisions, refers to the acceptability of the changes to the font of the signage, and includes in this regard reference to the vertical sign on Mary Street 5270mm long by 900mm in width.
- 7.1.4. The grounds states that the existing banner sign was permitted under 0153/03. 0153/03 permitted various works associated with the refurbishment of Penney's Stores at 47 Mary Street Dublin 1. Condition no. 4 of that permission states that *'the size, colour and projection of the individually mounted fascia letters and the projecting signage shall be the subject of the written agreement of the planning authority and such agreement shall be obtained prior to the commencement of development. Reason: In order to protect the architectural integrity of this protected structure...* The permission dated 23rd of July 2003 was followed by a meeting regarding compliance and finishes on 24th July 2003 and is the subject of a letter to the planning authority, referring to compliance details dated 7th August 2003. Included in the letter is a reference to *'all signage details are submitted and with the planners'...*
- 7.1.5. The planning authority's response to the grounds of appeal does not rebut the detailed grounds and the assertion that the banner sign is compliant with the 2003 permission.
- 7.1.6. From the information available to the Board, it is reasonable to conclude that the existing banner sign relies on the 2003 permission.
- 7.1.7. The grounds refers to the planning assessment on the subject application, which states that the proposal will not add to the visual clutter at this location, as there is no increase in the overall dimensions of the existing sign; and the grounds considers that the sole reason for restricting the illumination of the replacement sign was that

the Council considered that the existing halo illuminated banner sign was non-compliant.

- 7.1.8. The assessment in the planner's report refers to the planning history surrounding the site which has been detailed earlier in the report, and based on which the recommendation is made to grant permission subject to a condition precluding the illumination of the banner signage. From the planning history referred to it would in the report it would be inferred that the banner sign was permitted in 2010 and has since been consistently conditioned not to include illumination.
- 7.1.9. If the Board accepts that the existing halo illuminated banner sign is compliant with the permission granted in 2003 the issue arising in this case is merely whether the reallocation of space on the sign from the name 'Penney's' as the sole item on the sign to the name together with the inclusion of a clock, in the context of an existing halo illuminated banner sign, requires that the name portion should no longer be halo illuminated. In my opinion the omission of halo illumination from that portion is unnecessary and unreasonable. The condition should therefore be omitted.

8.0 Recommendation

- 8.1. In the light of the above assessment, I recommend that the planning authority be directed to remove condition 2. and the reason attached thereto.

Planning Inspector

3rd April 2017

Appendix - Photographs