



An  
Bord  
Pleanála

## Inspector's Report PL 249375

---

### Development

Removal of wall mounted sign and associated cabling wiring, lights and brackets.

Installation of new replacement wall mounted illuminated sign with back lit laser brushed steel lettering and logo and associated works.

### Location

O'Connell's Restaurant, No 135  
Morehampton Road, Dublin 4.

### Planning Authority

Dublin City Council.

### P. A. Reg. Ref.

3455/17

### Applicant

Kinetic Advertising Ltd.,

### Type of Application

Permission

### Decision

Refuse Permission.

### Type of Appeal

First Party against Refusal.

### Appellant

Kinetic Advertising Ltd

### Date of Site Inspection

30<sup>th</sup> November, 2017

### Inspector

Jane Dennehy.

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision.....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	4
4.0 Planning History.....	4
5.0 Policy Context.....	4
5.1. Development Plan.....	4
6.0 The Appeal .....	5
6.1. Grounds of Appeal .....	5
6.3. Planning Authority Response .....	6
7.0 Assessment.....	7
8.0 Recommendation.....	9
9.0 Reasons and Considerations.....	9

## 1.0 Site Location and Description

1.1. The application site is that of a two storey building at the corner of Morehampton Road and Belmont Avenue, Donnybrook. At present the ground floor is in restaurant use. Above the shopfronts at first floor level there are high level wall mounted signs on the Belmont Avenue elevation and on the Morehampton Road elevation. There are overhead lights fitted to brackets extending out over the footpath from the parapets and wire and cables. According to the application, the existing sign on the Belmont Avenue elevation is 1.2 metres in height x 2.3 metres in width.

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for:
- Removal of the wall mounted illuminated high level sign on the Belmont Avenue elevation and associated cabling wiring spotlights and brackets and,
  - Installation of a new wall mounted illuminated sign which is 0.9 m x 1.7 metres in width in laser cut brushed stainless steel lettering and a logo for Heineken.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. By order dated, 12<sup>th</sup> September, 2017 the planning authority decided to refuse permission on the basis of the following reason:

*“Having regard to the nature and scale of the signage, which is located at a high level on a prominent location directly to and overlooking the Belmont Avenue/Eden Road and Environs ACA, the proposal would have a serious negative impact on the visual amenity of the building itself and the surrounding area including the ACA and would set an undesirable precedent for similar type advertising and signage. As such it is considered to seriously injure the amenity of the adjoining properties in the vicinity and, would be contrary to the Z1 zoning for the site and contrary to the proper planning and sustainable development of the area.*”

## 3.2. **Planning Authority Reports**

### 3.2.1. Planning Reports

The planning officer in her report comments that the proposed development is unrelated to the business based at the premises and therefore opted to assess it with reference to the provisions for Outdoor Advertising as provided for in Appendix 19 of the Dublin City Development Plan, 2016-2022, notes the existing sign is “statute barred” from any enforcement action, the proposals for lower impact lighting for the proposed sign and for removal of wiring, lighting fixtures and cabling within the application and the location overlooking the ACA which it is argued in the application is planning gain. She concludes that the proposed development would set undesirable precedent for further similar high level advertising in the area.

## 4.0 **Planning History**

4.1. P. A. Reg. Ref. EXPPO102/17: The planning authority decided that replacement of the existing signage with the proposed signage is development and is not exempt development.

P. A. Reg. Ref.0886/91. A grant of permission was granted for a new shopfront included a condition in which there was a requirement for omission of an advertisement sign at first floor level on the Belmont Avenue Elevation for reasons of protection of visual amenity.

There is a prior planning history for the site which included proposals for demolition and replacement of the existing buildings with a larger mixed use development for which permission was refused. (P. A. Reg. Ref. 6609/05 and P. A. Reg. Ref. 2131/08 refer.)

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1. The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site location is within an area subject to the zoning objective Z1: *To protect provide for and improve residential amenities.*

- 5.1.2. The area to the north and north west and on the opposite side of Morehampton Road come within an area subject to honing objective Z2: *to protect and/or improve the amenities of residential conservation areas.*
- 5.1.3. Outdoor advertising policy objectives and guidance are in Appendix 19 in which development management standards are set out in section 19.6. Impact on Architectural Conservation Areas is included among several issues for considerations in assessment of planning applications. The issues for consideration also include location, design and fabric and the immediate context of the built environment and road and pedestrian safety requirements.
- 5.1.4. Signage and Shopfront Design policies and objectives are set out in Policies RD 15 and SC22 in high quality for new and replacement development is encouraged.
- 5.1.5. The site location is adjoined to the north and east by the Belmont/Mount Eden Road and Environs Architectural Area.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. A first party appeal was received from Tom Phillips Associates on behalf of the applicant on 9<sup>th</sup> October, 2017. It includes a detailed account of the planning policy and objectives for outdoor advertising and the background and context of the application site and the proposed development. Also included is an alternative proposal in which the illumination shown in the original application is omitted from the proposed sign. An outline summary of the appeal follows:
- Insufficient consideration was given to the planning gain associated with the proposed development whereby the existing signage, and unsightly lighting, brackets, wiring and cables (which is statute barred from enforcement proceedings) would be removed. The proposed, new smaller “Heineken” sign is a demonstrable and visual planning gain.
  - The proposed development accords with the development plan policies RD 15, SC22 and the policies for Zone 6 of the Advertising Control area within the development plan as provided for in Appendix 19 of the development plan by

reason of the replacement of the existing sign with an improved sign in an area in the commercial heart of Donnybrook as opposed to a residential area.

- Many of the policies and guidance in Appendix 19 of the development plan is focussed on large and interactive signage such as scrolling flashing or moving elements which is not relevant to the current proposal for removal of the existing sign and replacement with a new contemporary sign which responds sensitively to the premises and the surrounding area and is consistent with the design parameters in the development plan. It is consistent with the development plan including appendix 19 and the city council's Shopfront Design Guide 2001.
- It would need to be demonstrated that the proposed sign amounts to a dis-improvement on the existing sign for it to be rejected. The proposed sign is high quality, has no scrolling or flashing elements. The sensitivities of the ACA are taken into account but the development is not bound by the ACA restrictions.
- The sign is appropriate to the prevailing character of the area which includes the commercial strip local commercial centre of Donnybrook.
- The proposed sign face towards the main hub of the commercial centre of Donnybrook from the elevation. It is not garish, loud, over bright or incongruous to the setting being in a bustling vibrant and colourful area described as a top tier urban centre outside the city centre. It would not distract passers-by and does not have serious negative visual impact.

## 6.2. Planning Authority Response

In a letter received from the planning authority on 25<sup>th</sup> October, 2017 it is stated that the assessment in the planning officer's report is reaffirmed.

## 7.0 Assessment

7.1. The issues central to the determination of the decision and considered are:

- Justification for the proposed development and potential planning gain due to replacement of existing signage.
- The purpose and nature of the signage.
- visual impact on the amenities and character of the existing building and surrounding built environment.

### 7.2. Justification for the proposed development and potential planning gain.

- 7.2.1. There is no dispute that the existing sign which is unauthorised development is statute barred from enforcement proceedings. However, it is also noted in the planning authority, by condition excluded a proposal for upper level signage on the façade from a grant of permission for a shopfront on the Belmont Avenue Elevation for reasons of protection of visual amenity. (P. A. Reg. Ref.0864/91 refers.) The proposed development is arguably in conflict with this condition.
- 7.2.2. It is fully agreed that the removal of the sign, lighting brackets, cabling and wiring is most desirable and would result in significant improvement to the presentation of the building in the context of its environs. However, it should not necessarily be inferred that authorisation of the proposed replacement development can be justified solely on the basis of an agreement to remove the unauthorised signage and associated development with the outcome potentially being an improvement.
- 7.2.3. The rationale for authorisation of proposed development, even if it is an improvement, would not be necessarily be directly related to the interests of the proper planning and development, and, it could be contrary to the local authority's statutory planning policies and objectives. Furthermore, it could set precedent for further successful applications for development on the basis of a similar rationale with regard to existing unauthorised development whereas all development proposals including the proposed replacement development should be assessed on its own planning merits. Therefore, it is concluded that the case of the proposed development the existing unauthorised development should not be the base line for consideration of the proposed development.

**7.3. The purpose and nature of the signage.**

- 7.3.1. It is understood that the O'Connell's' restaurant, is the occupant of the entire ground floor of the building. It has shopfronts and signage for the restaurant at ground floor level of the facades on both the Morehampton Road and Belmont Avenue.
- 7.3.2. The view of the planning officer that the signage is unrelated to the primary purpose and use of the premises is considered reasonable, although wines and beers would be available within the restaurant as it is licensed. It is therefore agreed that it is appropriate to regard the signage as 'outdoor advertising' of a commercial nature as opposed to dedicated informational or shop signage directly related to the restaurant business operated at the building. It is also accepted that the primary focus of the policies and objectives in Appendix 19 as contended in the appeal is on large scale commercial advertising but it is not irrelevant to advertising signage such as the proposed development.

**7.4. Visual impact on the amenities and character of the existing building and surrounding built environment.**

- 7.4.1. When assessed on its own merits, (that is with the case made as to planning gain by removal of the existing unauthorised development being set aside) it is considered that the proposed development is unacceptable.
- 7.4.2. The Belmont Avenue frontage is within the streetscape of Belmont Avenue which with the exclusion of the appeal site itself and abuts the area within the Belmont Avenue and Mount Eden and Environs ACA and the subject building itself is within an area subject to the Z1 zoning objective which provides for the protection and improvement of residential amenities. The policies and objective for the zoning objectives and the ACA are fully applicable to the Belmont Avenue façade of the building. However, is acknowledged that the site location it is somewhat transitional in that commercial development on the opposite side of Morehampton Road terminates the vista on approach in a north easterly direction from the south west.
- 7.4.3. The site location is similarly transitional on exiting the commercial district of Donnybrook onto Belmont Avenue and its historic streetscape which comes within the areas of the ACA and Z2 zoning objective.
- 7.4.4. Notwithstanding the relatively limited size and the good quality materials and contemporary design, it is considered that independent commercial advertising at the



upper levels of the façade over the restaurant's shopfront at ground floor level is visually obtrusive and incompatible with the established historic architecture of the streetscape on Belmont Avenue which is predominated by the terraced two storey brick faced town houses which characterise the Belmont Avenue / Mount Eden and Environs Architectural Conservation Area, and would be contrary to the proper planning and sustainable development of the area.

- 7.4.5. It is noted that the applicant is willing to excluding lighting from the proposal for the sign if required but it is not considered that this modification could overcome any of the concerns previously discussed.

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

- 7.5.1. Having regard to the location of the proposed development which entails construction of a modest sized dwelling within an established residential area, 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.

### **8.0 Recommendation.**

- 8.1. In view of the foregoing, it is recommended that the planning authority decision to refuse permission be upheld and that the appeal be rejected. Draft Reasons and Considerations for a decision to refuse permission are set out below.

### **9.0 Reasons and Considerations**

Having regard to the nature of the location of the site within an area subject to the zoning objective Z1: *to protect and improve residential amenities* and, immediately adjacent to the Belmont Avenue/ Mount Eden Road and Environs ACA; to the proposed position at a high level on the elevation of the building facing onto Belmont Avenue where it overlooks and, is visually prominent in the streetscape within the Belmont Avenue/ Mount Eden Road and Environs ACA on approach from south west along Belmont Avenue and on approach from the east into Belmont Avenue from the commercial centre of Donnybrook village, it considered that the proposed development which is that of a commercial advertising sign would be seriously

injurious to the visual amenities of the residential area and would detract from the integrity and character of the Belmont Avenue/ Mount Eden Road and Environs ACA. As a result, the proposed development would be contrary to the proper planning and development of the area.

**Jane Dennehy**  
Senior Planning Inspector  
30<sup>th</sup> November, 2017.