



An
Bord
Pleanála

Inspector's Report ABP300586-18

Development	Retention of Planning Permission for a change of use from retail to Café and Retail and alterations to proposed internal layout consists of a new prep kitchen, toilets and seating. The application relates to a protected structure.
Location	5-6 Camden Market, Grantham Street, Dublin 8.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2917/17.
Applicant(s)	Granthams Cafe.
Type of Application	Permission for Retention.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellant(s)	Barry Chambers.
Observer(s)	None.
Date of Site Inspection	
Inspector	Paul Caprani.

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1.0 Introduction

ABP300586-18 relates to a third party appeal against the decision of Dublin City Council to issue notification to grant planning permission for a change of use from retail to café unit together with some material alterations of the internal layout of the building at 5-6 Camden Market, Grantham Street, Dublin 8. The building in question is listed as a protected structure. The application relates to retention of planning permission. The third party grounds of appeal argue that the late opening hours of the café will impact on residential amenities of the area. It is argued that the proposal will accentuate the intensification of late night uses on the doorstep of residential areas within the city centre.

2.0 Site Location and Description

The subject site is located on the northern side of Grantham Street approximately 50 metres west of its junction with Camden Street Lower. The subject site is located on the corner of Grantham Street and Grantham Place. The subject site and the row of buildings to the immediate east as far as Camden Street is known locally as Camden Market. Synge Street runs in a north-south direction approximately 50 metres further west of the subject site. No. 6 comprises of a two-storey brick structure with a balustrade stone railing running along the top of the building. The building comprises of two Victorian type shopfronts separated by a doorway which leads to the upper floor of the building. The upper floor of the building does not form part of the current application. The footprint of the ground floor is irregularly shaped. It formerly accommodated two separate retail units with separate accesses on the front elevation of the building onto Camden Market. A doorway also connected the two retail units in question. The corner unit comprises of an L-shaped unit. A separate access on the western elevation from Grantham Place also provides access to this unit. To the immediate north of the main unit a single-storey garage is located fronting onto Grantham Place. The rear portion of this garage is also incorporated into the subject site.

3.0 Proposed Development

Retention of planning permission is sought for a change of use from retail use to use as a café. The corner retail unit has been converted to open plan seating associated with the café. The more easterly unit has been retained as a retail area selling food goods and bakery etc. The proposal also involved the reconfiguration of internal partitions to provide water closets and store areas. A new opening has been created along the northern boundary of the site into the former garage area and this area now accommodates a kitchen and food preparation area. The total floor area of the development amounts to 120 square metres.

4.0 Planning Authority's Decision

4.1. Decision

Dublin City Council issued notification to grant retention of planning permission subject to 7 conditions.

Condition No. 2 required that the café shall operate between the hours of Monday to Friday 8 a.m. to 10 p.m. and Saturday 10 a.m. to 10 p.m. and on Sunday 10 a.m. to 6 p.m. only.

Reason: In order to safeguard the amenities of adjoining residential occupiers.

4.2. Documentation Submitted with the Application

- 4.2.1. The planning application was lodged on 12th May, 2017. It was accompanied by planning application form, planning fee and drawings etc. It was also accompanied by a conservation method statement/report. It notes that minor alterations have been carried out to the original fabric of the protected structure while the majority of the works completed have been to strip out the secondary alteration carried out by the previous tenant/operator. It notes that the front part of the building fronting onto Camden Market was built in 1907. The rear part of the building (No. 6 and the rear of No. 58 Camden Street) was a car showroom/car parts shop from 1967 to 2016. Prior to its current use the existing building was in a state of disrepair and photographs are attached showing the building in its original condition. The report goes on to set out

the works undertaken to date which mainly relates to stripping out of internal plasterboard and the removal of stud work and room divides with the provision of new water closets and a kitchen preparation area. It also involved the formation of two new openings within the original fabric of the protected structure (see drawings submitted).

- 4.2.2. It is stated that a number of additional works are also proposed. These relate to the fit out of the retail seating and kitchen areas as set out in the floor plans and the refurbishment of the existing façade together with duct work and signage. A fire cert and disability access certificate will be lodged independently.

4.3. **Additional Information Request**

- 4.3.1. A report from the conservation officer notes that there is an enforcement file in respect of works already completed. The conservation officer is not concerned regarding the proposed use. However, further information is required in relation to bin storage etc. There is also concern that minimal information is provided to guide the appropriate repair and conservation of prominent streetscape, terrace shopfront.
- 4.3.2. A report from the Drainage Division Engineering Department states that there is no objection to the report subject to standard conditions.
- 4.3.3. The planner's report notes that the floors above the retail and café use are residential and this is an important consideration in determining the application. It also notes that although the proposed change of use from retail to café retail would be considered acceptable in principle, it is recommended that the applicant shall address the following concerns by way of additional information.
- The applicant is required to ensure that all goods and refuse associated with the operation of the café shall be stored within the curtilage of the site and concealed from public view. The applicant is therefore requested to submit further information detailing the waste management arrangements for the café including the location of bins and arrangements for collection.
 - The applicant is requested to submit details demonstrating how the operation of the air intake and extract system would not impact negatively on residents living above or adjoining the café. The applicant is advised of the requirement that extract ventilation should be integrated into the building and shall contact

the environmental health officer of Dublin City Council to ascertain the requirements.

- Finally, having regard to the location of the use adjoining an established residential area, the Planning Authority would require details of the opening hours of the café and retail use. The applicant is requested to submit information indicating that the proposal would protect and enhance residential amenity of the area.

4.3.4. Further information was submitted on 1st November, 2017. It states the following:

All waste will be separated in the kitchen porter section of the kitchen area and waste removal will not cross over the proposed incoming “clean goods”. All waste will be stored in enclosed commercial wheelie bins and will be collected by a contracted private waste removal firm. There will be no bins stored on public roads and footpaths.

Details of the proposed ventilation layouts including air intake and extract units are also set out. Details of the proposed opening hours are also set out (Monday to Friday 8 a.m. to 10 p.m., Saturday 10 a.m. to 10 p.m. and Sunday 10 a.m. to 6 p.m. The retail unit will finish trading at 6 p.m. each evening with the café remaining open providing a service to locals in the area. While there are a number of restaurants in the area few provide a high end informal café experience.

4.3.5. A further report from the Planning Department states that the further information submitted is deemed to be satisfactory and it is also considered that the proposed opening hours will be considered reasonable having regard to the use of the premises and its location. It is therefore recommended that planning permission be granted for the proposed development.

5.0 Planning History

There are no files attached and the planning report states that there is no relevant planning history associated with the subject site.

6.0 Grounds of Appeal

6.1. The decision was appealed by Barry Chambers of 2 Grantham Street, Dublin 8.

6.2. The grounds of appeal are outlined below:

- It is noted that the site is zoned Z1 which seeks to protect, provide and improve residential amenities. The development plan requires that the amenity of nearby residents should be taken into consideration in dealing with applications. While Dublin City Council have acknowledged the need to protect amenity of adjoining residents in an established residential area however, it also permits trading up to 10 p.m. at night. It is argued that Dublin City Council needs to determine whether it is serious about the desire to retain and attract residents and families to live in the city centre or merely seek to ensure that the city centre is used for late night eating and drinking. Permitting inappropriate opening hours for cafés at night does to protect and enhance residential amenity. It is suggested that it will only detract from the amenity of this residential street.
- It is stated that the premises have been trading as a wine bar and café/restaurant since 1st November, 2017. Residents in the neighbourhood already suffer from the ill effects from the relaxed and at times poor planning policy decisions which has allowed the adjacent Camden Street/Wexford Street to become a mecca for late night revellers. An Bord Pleanála are therefore urged to prevent this overintensification of late night uses spilling onto the doorsteps of residents.

7.0 Appeal Responses

7.1. Applicant's Response to the Grounds of Appeal

7.1.1. The response outlines the history of the site and the former uses accommodated on the site (see reference to conservation statement above). Thus, that site has a history of trading and it is stated that there is a substantial divide between the existing row of commercial premises and residential dwellings in the area.

7.1.2. It notes that the site is zoned Z1 to protect, provide and improve residential amenities. The proposed development it is argued is in keeping with surrounding

development and is classified as zoning objective “open for consideration” in the current development plan. It is noted that the existing terrace has a high end restaurant and also accommodates a number of commercial uses. To accommodate a range of services provided it is proposed to open at 8 a.m. to accommodate passing commuter traffic and footfall from the surrounding residential areas with the passing retail option while the evening opening will allow the café element to trade.

- 7.1.3. It is stated that a member of staff will be on the door for the arrival and departure of guests in order to reduce noise levels. It is also stated that 10 p.m. cannot be regarded as late night and it is noted that neighbouring units have a closing time of 23 p.m. There is no proposed outdoor area which could interfere with existing residents or cause excessive noise. The proposed café constitutes a quiet environment and cannot be compared with late night revellers which may exist on Camden Street. There has never been any congregation of persons at the front entrance during service. It is stated that there have been no noise issues or complaints associated with the development. The proposal has constituted a refurbishment of a protected structure that was a dilapidated and also offers employment for 7 staff members. An Bord Pleanála at therefore requested to uphold the decision of the Planning Authority and grant retention of planning permission.

8.0 Planning Authority’s Response to Grounds of Appeal

It appears that Dublin City Council have not submitted a formal response to the grounds of appeal.

9.0 Development Plan Provision

- 9.1. The Dublin City Council Development Plan 2016 – 2022 applies. The subject site is zoned Z1 “to protect, provide and improve residential amenities”. The subject site is also listed on the Record of Protected Structures in the Development Plan.
- 9.2. In terms of policies and provisions in relation to cafés Section 6.5.3 of the development plan highlights the importance to continue to develop tourism infrastructure including providing new visitor attractions such as cafés and restaurants. This goal is outlined in Policy CEE12 and CEE18. The provision of

cafés, bars and restaurants are also seen as being important and complementary to streets which accommodate a main shopping focus.

- 9.3. In terms of the Z1 zoning objective this objective seeks to incorporate sustainable residential neighbourhoods. The vision for residential development in the city is one where a wide range of accommodation is available within sustainable communities _____ where residents are within easy reach of services, open space and facilities such as shops, education, leisure, community facilities and amenities on foot and by public transport. A restaurant use is a use open for consideration under the Z1 zoning objective.

10.0 Planning Assessment

- 10.1. I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal. I note that the subject site is listed as a protected structure and having visited the site and I note that the level of intervention taken in constructing the restaurant/café use is on the whole superficial in nature and does not result in any significant alteration to the historic fabric of the building. In this regard I consider the overall level of intervention from a conservation view is acceptable and I do not consider that any material planning issues arise with regard to the impact of the use on the historic fabric of the building. I further note that Dublin City Council considered the development undertaken to be acceptable in conservation terms. I therefore consider the Board can restrict its deliberations to the fundamental issue raised in the grounds of appeal that the proposed development is contrary to the zoning objective for the area, represents an inappropriate form of land use and will adversely impact on the residential amenities of the area.
- 10.2. In determining whether the principle of use is acceptable on the subject site the Board should have regard to the historic uses accommodated within the building itself and buildings in the vicinity. It is apparent that commercial type uses have been established within the buildings in question and these have co-existed over previous decades with surrounding residential use. Some of the uses which were historically accommodated on the subject site included commercial uses such as a car sales

and car parts shop as well as a retail shop and a potato store. Commercial and retail uses are therefore well established on the subject site.

- 10.3. Furthermore, it is apparent from my site inspection that the ground floor of the row of buildings that currently accommodate Camden Market are without exception commercial/retail in nature. They include an estate agent, a restaurant, a café and a barber shop.
- 10.4. I would also refer the Board to Figure 7 of the Dublin City Development Plan (page 111) which indicates that the subject site notwithstanding the residential zoning objective for the site is located within the city centre retail core, or at the very least at the periphery of the retail core. The city centre retail core appears to be centred on a north/south axis south of Phibsboro and north of Rathmines between the canals.
- 10.5. Therefore, notwithstanding the fact that the subject site is zoned R1, and the fact that residential development is located in the upper floors of the buildings fronting onto Camden Market, there can be little doubt in my view that the principle of commercial development is acceptable particularly at ground floor level on the subject site.
- 10.6. Finally, in relation to this matter it is important in my view that a mixture of residential and commercial uses are permitted within the city centre retail core as it adds to a vibrancy and vitality which is important to foster and maintain within the city centre and metropolitan area. Excluding commercial uses in their entirety from areas zoned residential within the city centre would in my view result in a sterile urban environment which would offer no community facilities for locals or attract visitors for the area which is quite clearly contrary to many of the policy statements referred to above in the development plan.
- 10.7. If the Board accept the principle of café development on the subject site as being an appropriate commercial use notwithstanding the residential zoning provision, a question nevertheless arises in relation to the opening times permitted under the decision issued by Dublin City Council. I do not consider that permitting the opening time to extent to 10 p.m. at night is unreasonable having regard to the nature of the use proposed and its location within the commercial core of the city. I do not accept the contention set out in the grounds of appeal that the proposal would constitute an extension of the Camden/Wexford Street strip which has “become a mecca for late night revellers”. What is proposed in this instance is not a late night opening club

which would attract visitors into the early hours of the morning. Permitting a café to open until 10 p.m. at night in my view is reasonable and would not unduly impact on the residential amenities of surrounding properties through late night disturbance etc. It is entirely appropriate in my view that Dublin City would continue to attract European style cafés and restaurants that would remain open in the evening time and be of normal business hours in order to provide appropriate eateries and venues where people can congregate in the early to late evening time. Permitting a small scale café/restaurant area to open until 10 p.m. cannot in my view be equated to a late night drinking venue which would have a material impact on surrounding residential amenities. I consider the provision of a café/restaurant at this location is a complementary use rather than an inappropriate use to a residential area particularly having regard to the established commercial ground uses at Camden Market.

10.8. Finally, in relation to the issue of amenity I am satisfied that the applicant has made adequate provision for appropriate air intake and ventilation requirements associated with the restaurant. I note that Dublin City Council requested further information with regard to this issue and the applicant submitted details of the proposed ventilation layouts including air intake and extract requirements. Drawings indicating same were submitted to the Planning Authority. Having inspected the drawings, I am satisfied that the proposed ventilation requirements and kitchen exhaust duct will not give rise to any significant impact in terms of noise and odour having regard to the proximity of residential dwellings and the general urban environment in which the exhaust duct will be located.

11.0 **Conclusions and Recommendation**

Arising from my assessment above therefore I would recommend that the Board uphold the decision of Dublin City Council in this instance and grant retention of planning permission for the development in question and furthermore I consider the open times as stipulated in Condition No. 2 of the permission issued by Dublin City Council should be upheld in this instance.

12.0 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity 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 a European site.

13.0 **Decision**

Grant retention of planning permission for the proposed development based on the reasons and considerations set out below.

14.0 **Reasons and Considerations**

It is considered that the change of use from a retail unit to a café and retail unit together with the alterations undertaken and alterations proposed on the subject site subject to conditions set out below, would not seriously injure the residential amenities of the area, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

15.0 **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the drawings received by the planning authority on 1st day of November 2017, 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. The café shall operate between the hours of Monday to Friday 8 a.m. to 10 p.m., Saturday 10 a.m. to 10 p.m. and Sunday 10 a.m. to 6 p.m. only.

Reason: In order to safeguard the amenities of adjoining residential dwellings.

3. Details of all external shopfronts and signage shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of the area and visual amenity.

4. 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.

5. Site development and building work shall be carried out only between the hours of 7 a.m. to 6 p.m. Monday to Fridays inclusive, between 8 a.m. and 2 p.m. on Saturdays and not all on Sundays or Bank Holidays. Deviation from these times will be only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

6. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during the construction works and in the interest of orderly development.

7. All works to the protected structure shall be carried out with the input of a specialist expertise from a conservation architect and in accordance with the Architectural Heritage Protection Guidelines and the advice as issued by the Department of Arts, Heritage and the Gaeltacht and also the conservation impact assessment submitted with the application.

Reason: To ensure the protection of the architectural integrity of the protected structure.

Paul Caprani,
Senior Planning Inspector.

XX April, 2018.