



An
Bord
Pleanála

Inspector's Report ABP-301278-18

Development	Retention and permission for internal and external alterations to 39/40 Drury Street and 8/9 South William Street and first floor rear extension.
Location	8/9 South William Street and 39/40 Drury Street, Dublin 2
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4596/17
Applicant(s)	Widestar Limited
Type of Application	Permission
Planning Authority Decision	Spilt Decision
Type of Appeal	First Party
Appellant(s)	Widestar Limited
Observer(s)	None
Date of Site Inspection	29/11/18
Inspector	Sarah Lynch

1.0 Site Location and Description

1.1. The subject site is located at 8/9 South William Street and 39/40 Drury Street within the South City Retail Quarter Architectural Conservation Area of Dublin City. The site comprises of two three-storey over basement buildings which face southeast onto South William Street and north west onto Drury Street. The buildings are connected to the rear via the basement and ground floors.

2.0 Proposed Development

2.1. The proposed development comprises the following:

1) the retention of:

- a) alterations to the shopfront at 39/40 Drury Street,
- b) alterations to the shopfront at 8/9 South William Street,
- c) plant at roof level of 8/9 South William Street,
- d) alterations to the internal layout of the existing licensed premises, and
- e) the permanent retention of an outdoor seating area at street level in front of 8/9 South William Street serving the existing licensed bar and restaurant to include 4 tables and 12 chairs surrounded by 1.5 metre high wind breakers (of glass and solid panels) and a planter, to remain in use during the business hours of the licensed premises;

2) the change of use of the first and second floors of 39/40 Drury Street, as well as the associated ground floor entrance (the former Fashion Fair stairs and elevator lobby, formally known as 40 Drury Street) (total 365.7sqm), from 'wholesale fashion warehouse' to 'office';

3) the provision at first floor level of 179.8m² of additional office floor space located on the rear roof of the existing first floor level office space at 8/9 South William Street, and connecting to the proposed first floor office space at 39/40 Drury Street (this will include the demolition of existing temporary roofing and provision of permanent roofing and new walls);

4) the provision at first floor level of 17.1sqm additional office floor space located over existing stairs to ground floor level; and

5) the provision of new backlit metal signage at the entrance to the former Fashion Fair stairs and elevator lobby, formally known as 40 Drury Street.

3.0 Planning Authority Decision

3.1. Decision

A spilt decision was issued by the planning authority as follows:

Permission was **granted** for the retention of:

- alterations to the shopfront at 39/40 Drury Street,
- alterations to the shopfront at 8/9 South William Street,
- plant at roof level of 8/9 South William Street,
- alterations to the internal layout of the existing licensed premises,
- temporary permission was granted for the retention of an outdoor seating area at street level in front of 8/9 South William Street

Permission was **granted** for:

- the change of use of the first and second floors of 39/40 Drury Street, as well as the associated ground floor entrance (the former Fashion Fair stairs and elevator lobby, formally known as 40 Drury Street) (total 365.7sqm), from 'wholesale fashion warehouse' to 'office';
- the provision at first floor level of 17.1sqm additional office floor space located over existing stairs to ground floor level; and
- the provision of new backlit metal signage at the entrance to the former Fashion Fair stairs and elevator lobby, formally known as 40 Drury Street.

Permission was **refused** for the following:

- 1) the provision at first floor level of 179.8m² of additional office floor space located on the roof to the rear of the existing first floor level office space at 8/9 South William Street, and connecting to the proposed first floor office space at 39/40 Drury Street for the following reason:

The first-floor office extension to the rear, located on the roof between the two buildings at 8/9 South William Street and 39/40 Drury Street would result in the overbuilding of the rear elevations, compromising the availability of natural light to the rear rooms of these buildings and would result in over development of this site. The development would also result in the dominance of a non-retail use which would be inconsistent with the policies pertaining to Chapter 3 'Lane Use' within the South City Retail Quarter ACA. The proposal, therefore, would set an undesirable precedent for similar developments, would be contrary to the Z5 zoning objective and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report is consistent with the planning authority decision. Three main concerns were raised with regard to the first-floor extension:

- Loss of light to the existing office accommodation at first floor on both ends of the property.
- Over-development of the site.
- First floor office floorspace would result in a dominance of non-retail floorspace which would be inconsistent with the policies pertaining to Chapter 3 'Lane Use' within the South City Retail Quarter ACA.

3.2.2. Other Technical Reports

- Drainage Division - No objections subject to conditions
- Roads and Traffic Planning Division - Width of outdoor seating should be reduced in order to allow a minimum width of 1.9 metres from the outdoor seating area to the footpath edge. Temporary permission to be granted, design for public realm improvements is currently under preparation.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland - Section 49 development contributions in respect of Luas Cross City.

3.4. Third Party Observations

One submission was received as follows:

- The provision of tables and chairs limits the footpath width making it harder for pedestrians and disabled people to pass.
- Shopfront is not in accordance with the neighbouring properties.
- Back lit signage is not in keeping with conservation area
- Proposal has not had regard to heritage assets in area and will damage the amenities of nearby occupants.

4.0 Planning History

The subject site has numerous applications for alterations to shopfronts, outdoor seating, change of use and extensions. The following are considered most relevant to the appeal.

8/9 South William Street & 39/40 Drury Street

3050/14 Permission was **Granted** for change of use of first floor of 39/40 Drury St from wholesale fashion warehouse to licenced bar and restaurant and change of use of first floor of 8/9 South William St to licenced bar and restaurant with an interconnecting terrace. Change of use of Second floor of 39/40 Drury St to office. Change of shop signage to both entrances on both streets and associated internal and external modifications. Temporary retention permission was granted for the outdoor seating to the front of 8/9 South William St.

8/9 South William St.

4934/07 Temporary Permission was **Granted** for the retention of outdoor seating.

3638/04 Temporary Permission was **Granted** for the retention of outdoor seating.

1155/03 Permission was **Granted** for the extension of the existing permitted licensed bar/restaurant premises at 8/9 South William Street into the basement and ground floor levels of the adjoining premises at 39/40 Drury Street; Change of Use of the basement and ground floor levels of 39/40 Drury Street from wholesale retail/storage use to licenced bar/restaurant use at ground floor level and from wholesale retail/storage use to managers store, dry goods room, staff toilet, store/bin store use, and fire escape corridor at basement level, through linkage from 39/40 Drury Street to the adjoining property at 8/9 South William Street at Basement and ground floor level to create a single licenced bar/restaurant premises; and all associated works.

40 Drury Street

3784/11 Permission was **Granted** for the change of use of a three storey over basement mid terrace building from wholesale fashion warehouse to health and beauty salon with associated internal alterations.

39/40 Drury Street

4382/03 Permission was **Granted** for the construction of an additional penthouse floor for use as offices, staff facilities and storage relating to the Wholesale Showrooms of Fashion Fair Ltd.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

Land-Use Zoning Objective Z5:

‘To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity’.

- Section 7.6.1 Primacy of the City Centre & Retail Core Area
- Section 14.8.5 - City Centre Zone 5
- Section 16.2.2.3 Alterations and Extensions
- Section 16.24.2 Shopfronts

- Section 16.24.3 Signs of Shopfront & other business premises
- RD15 – high quality design and finish for new shopfronts
- RD17 – Promote active uses at street level in city centre retail core

South City Retail Quarter ACA

- Section 3 – Land Use
- Section 4 – Shop Front Design and Advertisement Structures

Shopfront Design Guide – Dublin Corporation Planning Department

Appendix 3 Retail Strategy

- Section 3.7 Guidance on the scale and location of development.

The designation controls the extent of provision of non-retail uses at ground floor level.

5.2. Natural Heritage Designations

None

6.0 The Appeal

6.1. Grounds of Appeal

- Additional bar space within the upper floors is commercially unviable.
- Number of properties in the area utilise upper floors as office for which there is a market.
- Proposed office will accommodate 50-60 people resulting in increased activity on adjacent street.
- Extension will not be visible from surrounding streets

- Proposed extension will be design in accordance with BRE report 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (BR209) and relevant building regulations and technical guides.
- Daylight can cause glare on screens and is not visually valued in office developments.
- Total quantum of office floorspace is 749sqm existing bar restaurant is 943sqm.
- Dominant use provides active frontages.
- Vertical mix of uses will sustain vitality of inner city.

6.2. Planning Authority Response

- None

6.3. Observations

None

7.0 Assessment

7.1. The subject site is located within zoning objective Z5 which seeks 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'. I consider the proposed development to be acceptable in principle with the zoning objective for the area.

7.2. The main issues in this appeal are those in relation to the refusal of the first floor 179.8sqm extension and temporary permission for outdoor seating. It is considered that no other substantive issues arise. Appropriate assessment and EIA screening also needs to be addressed. These issues can be dealt with as follows:

- Suitability of office space at this location
- Impact on conservation area
- Loss of light
- Overdevelopment of site

- Impact on street accessibility
- Appropriate Assessment

Suitability of office space at this location

- 7.3. The proposed development is located within a Category 2 street within the South City Retail Quarter ACA where it is outlined within Section 7.6.1 of the Dublin City Development Plan 2016-2022, that the purpose of this designation is to protect the primary retail function of these streets as the principal shopping streets in the retail core.
- 7.4. The development plan seeks to ensure that retail remains the dominant use of buildings in this area at ground floor and seeks a reduction in dead frontages. The existing bar /restaurant which is the dominant use of this building provides for an active ground floor at this location.
- 7.5. The zoning objective for this site seeks to permit a vertical mix of uses in which offices are accepted. In order to reduce vacancy and optimise the use of city centre space it is considered that the proposed first floor office development would not negatively impact upon the viability of this street and is in accordance with the zoning objective for the area.

Impact on Conservation Area

- 7.6. The applicant has proposed to retain a number of alterations to the shopfronts at both 39/40 Drury Street and 8/9 South William Street as outlined in Section 2.1 above. These alterations are considered to be acceptable and in accordance with the requirements of the Dublin City Development Plan and associated documents. Internal alterations to the layout of the building are also considered to be acceptable and will not have any adverse impact on the integrity of the existing Architectural Conservation Area.
- 7.7. The proposed 179.8sqm first floor office extension will be located to the rear of both buildings behind the first and second floor facades out of sight from the surrounding ACA. The purpose of this structure is to provide additional office floorspace at this level and to also link the existing first floor office spaces of the two buildings.

- 7.8. It was noted at the time of site inspection that many of the surrounding buildings have been extended significantly to the rear and to a higher level than that proposed, in particular 12/13 South William Street which was extended to four floors to accommodate a hair dressing school in 2005.
- 7.9. Given that the proposed extension cannot be seen from any of the surrounding streets it is considered that this element of the proposal will not negatively affect the character or setting of the South City Retail Quarter ACA and as such is considered to be acceptable in terms of design.

Loss of light

- 7.10. It is stated by Dublin City Council that the availability of natural light to both of the existing first floor office spaces would be compromised by the development of this extension and the proposal would therefore result in an over development of the site.
- 7.11. The proposed development incorporates a large roof light which runs the length of the extension and measures c. 3.2 metres in width which will permit a significant level of daylight into both the proposed extension and the existing offices.
- 7.12. In addition to this roof light there are existing windows in both elevations fronting onto both Drury Street and South William Street. It is important to note that the proposed development will provide for office accommodation, in which natural daylight can create negative issues for computer users and is generally supplemented by artificial lighting. Loss of light is therefore not considered to be a significant issue affecting this development.

Over development of site

- 7.13. As mentioned above many of the neighbouring properties have been extended at higher levels and across the full rear of these sites. This arrangement is considered to be acceptable in this city centre location where space is at a premium. I do not consider therefore, that an additional first floor which is out of sight from the surrounding streets to be an overdevelopment of this site.

Impact on street accessibility

- 7.14. It is proposed to retain the existing outdoor seating at 8/9 South William Street. It is noted from the planner's report and internal technical reports that this element of the street is proposed for pedestrianisation in the future along with public realm

improvements as outlined within the Grafton Street Quarter Public Realm Plan 2014. Any permanent permission for on street furniture may compromise the future development of the street as such it is considered that an additional temporary permission is appropriate.

Appropriate Assessment

- 7.15. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any 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.
- 7.16. Overall the proposed development is considered to be acceptable and will not result in any negative impact upon the existing ACA or the viability of this category 2 street.

8.0 Recommendation

- 8.1. It is recommended that permission is granted.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development and development to be retained would not seriously injure the amenities of the area or of property in the vicinity. The proposed development and development to be retained 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. (a) Permission for the outdoor seating area in front of 8/9 South William Street is granted for a limited period of 3 years from the date of this grant at which date the permission shall cease unless a further permission has been granted before the expiry of this grant of permission.

(b) The permitted seating area shall be reduced to allow for a minimum width of 1.9 metres from the outer edge of the outdoor seating area to the edge of the footpath. The applicant shall submit a revised drawing detailing the reduced seating area to be agreed in writing with Dublin City Council within one month of the date of this grant.

(c) Any repairs required to the public footpath as a result shall be borne by the developer in this regard.

Reason: In the interest of proper planning and development, to ensure adequate pedestrian movement along the public footpath and so that the effect of the development may be reviewed having regard to the circumstances then prevailing.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area

4. Water supply and drainage arrangements, including the disposal and attenuation 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. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

6. The sound levels from any loudspeaker announcements, music or other material projected in or from the premises shall be controlled so as to ensure the sound is not audible in adjoining premises or at two metres from the frontage.

Reason: In the interests of environmental amenity.

7. Construction works relating to the proposed development shall only be carried out between the hours of 08.00 hours and 18.00 hours Monday to Friday, 9am and 16.00 on Saturdays and at no time on Sundays or Public Holidays.

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

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement

of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

10. The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Sarah Lynch
Planning Inspector

4th December 2018