



An
Bord
Pleanála

Inspector's Report ABP-301743-18

Development

PROTECTED STRCUTURE: The development will comprise internal modifications, reconfigurations and refurbishment of the building and the change of use of the basement, ground floor and first floor from Office Use to Public House (the second, third and fourth floor will remain in Office Use and all associated ancillary facilities. The development will also include a new roof extension (to a height of approx. 25.8m OD) at fourth floor level to increase office floorspace by approx. 19.58 sq.m and to house an internal plant area of approx. 24.1 sq.m elevation changes comprising the provision of a new ground to fourth floor facade onto Dame Lane including new fenestration arrangement and 4 no. doors at ground floor level, the repair and renewal of brickwork and slate roof where required and the replacement of existing windows on Dame Street with Georgian sash windows. An extension to the lift,

comprising an overrun at roof level:
and provision of external plant,
including Air Condensers and
Automatic Opening Vent, at roof level
are also proposed. The proposal will
also comprise alterations to the
pavement on Dame Street; signage
areas on Dame Street (approx.
0.38sq.m) and Dame Lane (approx.
0.87sq.m & 0.1sq.m), drainage works,
all site development works, and all
other ancillary works.

Location 37 Dame Street, Dublin 2

Planning Authority Dublin City Council South

Planning Authority Reg. Ref. 4567/17

Applicant(s) Bridlewood Dame Ltd.

Type of Application Permission.

Planning Authority Decision Refuse Permission

Type of Appeal First Party

Appellant(s) Bridlewood Dame Ltd.

Observer(s) Cllr Mannix Flynn.
Pawnbeach Ltd

Date of Site Inspection 5th October 2018

Inspector Bríd Maxwell

1.0 Site Location and Description

- 1.1. The appeal site relates to a protected structure located on the southern side of Dame Street in Dublin City Centre. No 37 Dame Street comprises a single narrow Georgian plot running from Dame Street to Dame Lane. The plot comprises two distinct parts – towards Dame Street is a five storey over basement Georgian building whilst to the rear is a five storey modern (1980s) block extending to Dame Lane.

- 1.2 At ground floor level to Dame Street, No 37 has a cut limestone shopfront or commercial façade with a pedimented door case and a large window divided by an unfluted doric column. The building has an original brickwork façade at upper levels with an unusual hierarchy of window sizes. The historic building report compiled by McCullough Mulvin Architects surmises that the height of the ground floor commercial premises may have been raised at one point making the first-floor rooms unusually low with the first-floor windows reduced in height and reaching almost to the floor level. It may also be possible that the ground floor was originally double height (ref No 36 Dame Street) with a floor inserted later. Windows at upper levels have been replaced with modern units which spoil the proportional character of the elevation. There is a stone parapet and the roof profile incorporates a hipped roof to the street and a gable roof behind. Original chimney stacks remain in situ and rooflights have been inserted. Internally, no 37 retains the bulk of its original structure and fabric but lacks significant original decorative features.

- 1.3 The modern section of the building extends to the edge of Dame Lane with façade providing ground floor finished with a roller shutter and 1980s decorative pastiche surround which provides vehicular access to ground floor garage serving two car parking spaces. There are three full upper floors and a half floor with balcony at fourth floor level. Side elevations are blank and finished in brickwork. Glazing to Dame Lane comprises a typical mid 1980s post-modernist composition with façade finished in brickwork.

- 1.4 The surrounding area is predominantly commercial in character with a number of cultural, retail, office, restaurants and pubs in the vicinity. To the northern side of Dame Street opposite the site is the former Central Bank which is currently being refurbished for mixed restaurant café and retail uses.

2.0 Proposed Development

- 2.1. The proposal as set out in public notices comprises internal modifications, reconfiguration and refurbishment of the building and change of use of the basement, ground floor and first floor from office use to public house and all associated ancillary facilities. The second, third and fourth floors will remain in office use. The development will also include a new roof extension (to a height of approx. 25.8m OD) at fourth floor level to increase office floorspace by approximately 19.58 sq.m and to house an internal plant area of approximately 24.1 sq.m. Elevation changes comprising the provision of a new ground to fourth floor façade onto Dame Lane including new fenestration arrangement and 4 no doors at ground floor level. Repair and renewal of brickwork and slate roof is proposed where required and the replacement of existing windows on Dame Street with Georgian sash windows. An extension to the lift, comprising an overrun at roof level; and provision of external plant, including air condensers and automatic opening vent, at roof level are also proposed. The proposal will also include alterations to the pavement on Dame Street, signage areas on Dame street (approximately 0.38 sq.m) and Dame Lane (approx. 0.87 sqm and 0.1 sq.m) drainage works, all site development works and all other ancillary works. A section of the first-floor level overlooking Dame Lane will be used as an indoor / outdoor space associated with the public house use.
- 2.2. To Dame Lane it is proposed to create a contemporary gabled elevation. Side elevations will be unchanged. Upper floors are re-glazed with offset contemporary glazed screens. First floor is recessed and ground floor set out with matching brick piers with new doors between.

2.3. The proposal is set out in the detailed application drawing and documentation which includes the following reports.

- Planning report by RPS Group Ltd.
- Architect's Report by McCullough Mulvin Architects.
- Photographic Survey by McCullough Mulvin Architects.
- Historical Appraisal and Report by McCullough Mulvin Architects.
- Desktop Archaeological Report by Archaeological Projects Ltd.
- Appropriate Assessment Screening Report by Scott Cawley.
- Mechanical Electrical and Lift Services Design Philosophy Report by IN2 Engineering Design Partnership
- Civil Engineering Infrastructure Report by Barrett Mahony Consulting Engineers

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 30th April 2018, Dublin City Council decided to refuse permission for the following reason:

"It is considered that the proposed change of use of the basement, ground and first floor from office to public house would lead to an over concentration of entertainment uses and would not support the provision of a balanced mix of uses on this category 2 shopping street. Consequently, the proposed change of use would materially contravene policy RD17 and section 16.32 of the Dublin City Development Plan and as such would be contrary to the proper planning and sustainable development of the area."

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 Planner's initial report notes that the restoration and appropriate refurbishment of this protected structure is welcomed in principle. The detailed concerns of the conservation officer are noted. In relation to the proposed use, it is asserted that the applicant has not adequately justified the proposed change of use to a non-retail use on a category 2 shopping street having regard to the number / frequency of restaurants and licensed premises and other retail services in the area. Additionally, concerns are expressed with regard to noise emanating from the first-floor terrace.

3.2.1.2 A request for additional information issued seeking justification for the proposed change of use to a non-retail use on this category 2 shopping street by reference to Section 16.32 of the Development Plan. Request sought details of mitigation measures to prevent noise nuisance from first floor external terrace. Flagpoles are inappropriate. Conservation requirements, including scaled 1:20 drawings of extant historic details including window shutters, lining architraves and cornices and details of proposed replacement windows. Extent of fire upgrading works to be clarified and alternative access to basement to be considered. Demolition of former rear wall at ground floor level and demolition of part of wall to front room at second third and fourth floor level to be reconsidered with existing door openings to be retained. Roof area details to be clarified.

3.2.1.3 Second Planner's report following submission of additional information notes that the retail survey prepared demonstrates that restaurants / café / take way public houses account for approximately 47% of the uses with retail only representing 20% of the uses. Recent increase in higher order comparison retail on Dame Street and College Green is a positive development for the area. Whilst it is acknowledged that the existing use is not retail the purpose of the category 2 designation is to protect the retail function of the street by encouraging more retail. On this basis refusal was recommended.

3.2.2. Other Technical Reports

3.2.2.1 City Archaeologists report notes the location within the zone of archaeological potential for Recorded Monument and Place SDU018-020 (Dublin City).

Cartographic evidence suggests that the current structure is likely to be 18th century in date. Archaeological monitoring at the site should be sufficient to attach to any grant of permission.

3.2.2.2 Drainage Division. No objection subject to compliance with Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.

3.2.2.3 Roads, Streets and Traffic Department notes significant proposals for public realm improvements in the immediate area in reference to proposals for public plaza at college green ¹. No objection to proposal subject to conditions including construction management plan servicing management plan.

3.2.2.4 Conservation Officer's report notes that notwithstanding its peculiarities the building forms part of the historic streetscape of Dame Street. Modern building to rear is of no architectural interest and its demolition and replacement with a new building in accordance with proposed drawings is supported. In relation to protected structure the replacement of pavement light with access hatch to basement and loss of natural light to cellar is unfortunate and alternative access hatch between two pavement lights should be explored. Demolition of former rear wall to the building at ground floor level (adjacent to the dumb waiter) removes plan form of the original building and should be reconsidered. Demolition of part of wall of front room at second, third and fourth floor levels to facilitate the formation of glazed panel adjacent to the existing door opening should be reconsidered to prevent incremental loss of fabric. Modern existing fabric to second third floor levels to be carefully removed to establish whether any original cornicing survives. All discovered historic fabric to be recorded retained and repaired where extant. Reflected ceiling plan to be provided. In relation to the roof area alternative to be considered to avoid additional opening. Accessibility of narrow zone between pitched roof gable and the proposed plant enclosure to be considered. Query raised regarding whether proposed vertical slate cladding to plant enclosure is feasible and might be more appropriate to provide good quality heavy duty traditional lead cladding.

¹ JA0039 Application under Section 175 of the Planning and Development Act 2000, as amended for civic plaza and ancillary traffic management measures. Approval refused by the Board 15/10/2018.

3.3. Prescribed Bodies

3.3.1 TII – Submission from Transport Infrastructure Ireland notes that the proposed development falls within the area set out in the S49 Levy Scheme Luas Cross City to Stephens Green to Broombridge Line Contribution Scheme.

3.4. Third Party Observations

3.4.1 Submission from Cllr Mannix Flynn on his own behalf and on behalf of residential community in the area. Concern at negative impact on area arising from saturation of public houses. Negative impact on protected structure. Cumulative destruction of historic fabric. Public order and health and safety issues.

3.4.2 Submission by Marston Planning Consultancy on behalf of Pawnbeach Ltd. Further non-retail frontage to Dame Street. Proposal results in an overconcentration of public houses and will result in quasi expansion of the Temple Bar area to the detriment of residential amenity and established character and function of the area. Internal modifications at ground and first floor and basement level are irreversible and are likely to compromise the original form and historic legacy of the structure.

4.0 Planning History

0179/91 Permission granted for 4 storey over ground level office extension. 37 Dame Street Dublin 2.

ABP300063-17 3620/17 Building formerly known as the Central Bank, Dame Street, Dublin 2. Change of use to restaurant café units and hospitality areas.

JA0039 Application under Section 175 of the Planning and Development Act 2000, as amended for civic plaza and ancillary traffic management measures. Approval refused by the Board 15/10/2018.

4523/17 The Mercantile Hotel. Application for change of use from office to hotel use at first second third and fourth floor levels. Amalgamation of Dame House with Mercantile Hotel. Refused March 2018 on visual amenity and conservation grounds overdevelopment and negative impact on protected structure.

5.0 Policy Context

5.1. Development Plan

- 5.1.1 The site is zoned Z5 under the Dublin City Development Plan 2016-2022. The objective is “to consolidate and facilitate the development of the central area and to identify reinforce and strengthen and protect its civic design character and dignity.”.
- 5.1.2 Conservation Area extending across Temple Bar and the North Quays extending along shopping streets to the east bounds the northern elevation facing Dame Street. Section 11.1.5.6 states that new development should have a positive impact on the local character.
- 5.1.3 Dame Street is recognised a Category 2 Retail Street within the Core Retail Area of Dublin City. The purpose is to protect the primary retail function of this street. Complimentary non-retail uses such as cafes and restaurants add to the vibrancy of the street and create a mixed-use environment to provide for a more integrated shopping and leisure experience, will be considered favourably but with regard also to the primary function of the street. Policy RD 13 *“To affirm and maintain the status of the city centre retail core as the premier shopping area in the State.”* Policy RD17 is the policy *“to promote active uses at street level on the principal shopping streets in the city centre retail core and in Z4 district centres and having regard to the criteria for category 1 and category 2 streets and special planning control areas.”*
- 5.1.4 Dame Street is recognised as forming part of the Grand Civic Spine within which it is a policy of the City Council to upgrade Dame Street. (Policy SC2)
- 5.1.5 CHC40 It is the policy of Dublin City Council to *“support existing and encourage the growth of emerging cultural clusters and hubs in the city, which bring together cultural activities with supporting uses such as restaurants, retail outlets etc. to create vibrant and innovative cultural experiences”.*
- 5.1.6 CHC028 It is an objective of Dublin City Council *“to discourage an over-concentration of large public houses in any particular area to ensure a balanced mix of cultural uses, including venues for live music, theatre, film and dance, whilst protecting the residential amenities of city centre residents.”*

5.1.7 CHC2 *“To ensure that the special interest of protected structures is protected. Development will conserve and enhance protected structures and their curtilage and will:*

- a) *Protect or, where appropriate, restore form. Features and fabric which contribute to the special interest*
- b) *Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances.*
- c) *Be highly sensitive to the historic fabric and special interest to the interior including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fitting and materials*
- d) *.....*

Changes of use of protected structure, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation will be promoted.”

It is the Policy of Dublin City Council CEE12 (i) To promote and facilitate tourism as one of the key economic pillars of the city’s economy and a major generator of employment and to support the provision of necessary significant increase in facilities such as hotels, apart hotels, tourist hostels, cafes and restaurants, visitor attractions including those for children.

5.1.8 Section 16.32 Night Clubs / Licensed Premises / Casinos / Private Members’ Clubs.

“In recognition of the importance of Dublin as a thriving and multi-dimensional capital city, there is a need to facilitate the concept of the 24-hour city, particularly in the city centre and other key district centres. Dublin City Council will encourage entertainment / cultural / music uses which help create an exciting city for residents and tourists alike, and which are capable of attracting people in cutting edge industries such as digital media.

There is a need to strike an appropriate balance between the role of these entertainment uses in the economy of the site and the following

“To maintain high quality retail functions on the primary city centre streets and ensure a balanced mix of uses,

To protect the amenities of residents from an over-concentration of late night venues.”

“The development of ‘superpubs’ will be discouraged and the concentration of pubs will be restricted in certain areas of the city or where there is a danger of overconcentration of these to the detriment of other uses. In cases where new uses including uses such as casinos, private members’ clubs, extension to the existing use or variation in opening hours of a public house are proposed, the onus is on the applicant to demonstrate that such proposed development will not be detrimental to the residential, environmental or established character or function of the area.

Matters that shall be taken into account by the Planning Authority in assessing these applications for these uses and extension to these uses include:

The amenity of neighbouring residents and occupiers

Hours of operation

Traffic management

Shopfront treatment and impact on streetscape

Proposed signage.”

5.2. Natural Heritage Designations

5.2.1 The site is not within a designated site. There are a number of Natura 2000 sites within 15km including the following:

- South Dublin Bay SAC Site Code 000210 3.4km east.
- North Dublin Bay SAC Site Code 000206 5.7km east.
- Baldoyle Bay SAC Site Code 000199 10.6km northeast.
- Howth Head SAC Site Code 000202 11.4km east.
- Rockabill to Dalkey Island SAC Site Code 0003000 11.5km east.
- Wicklow Mountains SAC Site Code 002122 11.8km south
- Glenasmole Valley SAC Site Code 001209 11.8km southwest.

- Malahide Estuary SAC Site Code 000205 13.5km northeast.
- Ireland's Eye SAC Site Code 002193 14.6km north
- South Dublin Bay & River Tolka Estuary SPA Site Code 004024 2.8km east.
- North Bull Island SPA Site Code 004006 5.7km east.
- Baldoyle Bay SPA Site Code 004016 10.9km north east.
- Wicklow Mountains SPA Site code 004040
- Dalkey Islands SPA 13.3km south east
- Broadmeadow / Swords Estuary SPA Site Code 004025 13.5km northeast.
- Howth Head Coast SPA Site Code 004113 14km north
- Ireland's Eye SPA Site Code 004117 14.4km north east.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The grounds of appeal which are submitted by RPS Group on behalf of the first party are summarised as follows:

- Dame Street is currently undergoing considerable regeneration with redevelopment of the former Central Bank of Ireland and future plans college Green Public Plaza.
- 37 Dame Street is an underutilised building devoted to office use but cannot compete with modern built for purpose office space within the central service district.
- The proposal will provide interaction and animation to Dame Street and Dame Lane.
- A bar will contribute to the vibrancy and vitality of this evolving area.
- The proposal ensures the conservation and enhancement of the protected structure and the adjacent conservation area.
- Positive impact on local character through restoration and repair of the original Dame Street façade and roof and provision of high quality contemporary gabled elevation to Dame Lane.
- Vacant office detracts from the street's environmental quality character.

- Increase of one additional unit will only marginally increase the overall percentage of restaurants / café / take away /public houses on the street and will not lead to an over proliferation of entertainment uses.
- Category 2 street designation provides, “where there is already a mixture of retail and non-retail uses or where there is potential to strengthen the retail or complementary uses on under-performing streets to improve the offer or attractiveness of the city centre retail core”. Dame Street fits this description having a varied mix of both retail and non-retail units.
- Complementary non-retail uses add vibrancy and creates a mixed-use environment to provide for a more integrated shopping and leisure experience and will be considered favourably with regard to the primary retail function of the street.
- Development plan restricts the overconcentration of large public houses. The proposed unit is a small to medium sized public house.
- At this end of Dame Street and College Green, there are 45 units only 4 of which are public houses. The increase of one public house would increase the percentage from 8.9% to 11.1% which could not be considered an over concentration for a city centre street. When considered over the whole of Dame Street /College Green the addition of one public house increases number from 10.8% (8 public houses) to 12.2% (9 public houses).
- The proposal provides an active use and does not involve the loss of a retail use.
- Use as a public house will introduce an active use which will require minimal works to the protected structure whereas a traditional retail use would benefit commercially from full height windows and more traditional shopfront.
- Note a number of precedent cases on Category 2 Shopping Streets: Central Bank PL29S300063 Ref 3620/17; Shamrock Chambers 59. 60. and 61 Dame Street 3867/17 (change of use from restaurant retail and office to a hotel) (Ref 3867/17) (Notably that this involved loss of retail unit and restaurant); 52-56 South Great Georges Street (Reg Ref 3688/17) Permission 22 November 2017 for subdivision of existing Dunnes Stores homeware retail unit to provide two licensed restaurant units; Central Hotel South Great Georges Street PL29S 248944 2151/17. Refurbishment of the central hotel including change of use of retail unit at 16 South Great Georges

Street to a public house. Appeal related to loss of retail unit on category 2 shopping street. The Board upheld the decision to grant.

6.2. Planning Authority Response

6.2.1 The Planning Authority did not respond to the appeal.

6.3. Observations

6.3.1 Observations from Cllr Mannix Flynn supports the decision of Dublin City Council.

The area is oversubscribed with public houses and entertainment venues with consequent problems regarding public order, anti-social behaviour and erosion of amenity. Note recent refusal of application by Mercantile Hotel Group and application for pub extension at Merchants Arch. Permission for redevelopment of Central Bank was based on a good mix of uses to complement public plaza and pedestrianisation of this area. Do not need extension of temple bar model in and around George Street, Dame Street, Wicklow Street, Dame Lane Area. Dame Lane area is semi pedestrianised and allows through traffic. Proposal would add more difficulty and chaos to this mix. Peace quiet and enjoyment of 4,000 plus residents and hotel residents should be considered.

6.3.2 Observation from Marston Planning Consultancy on behalf of Pawnbeach Ltd fully supports the grounds and principle of refusal. Proposal will further denude the Category 2 shopping street of Dame Street that forms part of the Grand Civic Spine Contrary to Policy RD 17 of the City Development Plan and will result in an over concentration of public houses with seven already operating within 60m of the site and all bar one providing their main entrances off Dame Lane. Proposal will result in the quasi expansion of the Temple Bar area. Given the scale of the proposal 320 sq.m over three floors and including external terrace. Precedent cases cited by the applicant differ in that none were solely for a public house and most already contained a commercial use or related to consolidation of an existing use such as a hotel. Central Bank is completely different in nature and character and does not contain licensed premises. Applicant has failed to address the fundamental reasons

for refusal as set out. Board is unable to overturn the decision given 37 2(b) of the 2000 Act.

7.0 **Assessment**

7.1 I consider that the principal issues arising in this appeal can be addressed under the following broad headings:

- Principle of Development
- Cultural Heritage Impact on the protected structure.
- Impact on Amenity - Concentration of Licensed Premises.
- Appropriate Assessment
- Environmental Impact Assessment.

7.2 **Principle of Development**

7.2.1 The site is zoned Z5 the objective of which is to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity. Public house is a permissible use within this zoning category. Dame Street is a category 2 retail street the objective of which is to maintain and strengthen the retail character of the city centre retail core. The purpose of this designation is to protect the primary retail function of these streets as the principal shopping streets with an emphasis on higher order comparison retail and a rich mix of uses. The plan seeks to avoid adverse effect of dead frontage or lower order retail in the premier shopping streets. The designation controls the extent of provision of non-retail uses at ground floor level, but also allows for uses complementary to the main shopping focus such as cafés, bars, restaurants and

galleries. The development seeks to introduce and new use to basement ground floor and first floor of a currently vacant building. I note Policy CHC2 which outlines that changes of use of protected structures which will have no detrimental impact on the special interest and are compatible with their future long-term conservation will be promoted. In the context the specific zoning policies and designation and of the wider strategic objectives relating to the city centre I consider that the proposed use supports these objectives and in this regard, I consider that the principle of the development is therefore acceptable.

7.3 Cultural Heritage – Impact on the Protected Structure

7.3.1 Architectural Report compiled by McCullagh Mulvin Architects asserts that in terms of the impact on the character of the protected structure and adjacent protected structures, the impact will be positive in nature. Externally the brickwork and stonework to Dame Street will be conserved repaired and repointed in line with best conservation practice. Appropriate Georgian windows will replace existing. The existing roof structure and finish and chimneys will be retained, repaired and repointed in line with best conservation practice.

7.3.2 Existing original features internally though minimal will be retained and or exposed and integrated into a new decorative scheme including shutter boxes, skirtings, floorboards, cornices and Victorian ceiling lobbies and insertions. It is intended to maintain the mixed Georgian / Victorian character of the existing building in the new scheme. I have noted the concerns raised by the conservation officer with regard to demolition of former rear wall of the structure and incremental loss of historic fabric. In response to the request for additional information the first party indicated that further investigation demonstrates that the rear wall is not original. The provision of a deeper downstand on the ground floor is proposed to represent the rear line of the building. Further amendments were outlined to retain building form.

7.3.3 I am satisfied that the proposal will have a minimal impact on the protected structure. The fact that the building is to be brought into active use and reinstatement of

appropriate fenestration is a positive planning gain. On this basis I consider that the proposal will not have any adverse impact on the architectural or historic integrity of the protected structure. I also consider that in terms of visual impact the proposal is positive in terms of its presentation to Dame Lane.

7.4 Impact on Amenity – Concentration of Licensed Premises.

7.4.1 This is the key issue arising in this case. The City Council's decision asserted that the proposed change of use would lead to an overconcentration of entertainment uses and would not support the provision of a balanced mix of uses on this category 2 shopping street. I note that the retail survey conducted by the First Party on Dame Street College Green 27th February 2018 and submitted in response to the Council's request for additional information reported that the proposal would increase the number of public houses from 8 to 9 along the Entire College Green Dame Street Area 520m (10.8% to 12.2%) or if confined to the eastern end of Dame Street College Green 350m increase from 4 to 5 (percentage increase from 8.9% to 11.1%). The submission argues that rather than a large public house, the proposal is a small to medium sized public house. The first party therefore argues that the proposal will not lead to an overconcentration of night-time or late-night venues.

7.4.2 The City council planning officer noted that the submitted survey demonstrated that retail uses on Dame Street account for a mere 20% of uses with restaurants café takeaway and public houses accounting for 47% of uses. Whilst the former Central Bank redevelopment will provide a mix of retail shopping cafes and restaurants, I note that as highlighted in the submissions of the third-party observers, the location also has to be considered in the context of proximity to Temple Bar and more particularly the immediate interface with Dame Lane. Public houses in the immediate vicinity include 4 Dame Lane, The Bankers, Mulligans, The Stags Head, Dame Tavern, The Mercantile. The proposal would result in a sixth public house within 60m on Dame Lane. Having reviewed this context, I am inclined to concur with the conclusions of the City Council Planner that in order to avoid an excessive concentration of public houses and to strike an appropriate balanced mix of uses

within the city refusal is warranted. Section 16.32 of the development plan seeks to discourage the concentration of pubs in certain areas of the city where there is a danger of overconcentration of these uses to the detriment of other uses, is of relevant in the current case. As regards the scale of the proposed public house 320sq.m the question of whether it constitutes a 'large' public house is a moot point. The proposal would clearly conflict with policy RD13 which seeks to affirm and maintain the status of the city centre retail area as the premier shopping area in the State.

7.4.3 On the issue of case precedent referenced within the first party appeal, I note that the cases cited differ variously from the current proposal in that they relate to expansion of established use or the establishment of an ancillary use to an established use as opposed to the current appeal relating to change of use to public house in the current case. Thus, in the unique circumstances of the appeal site it is appropriate that proposed change of use is assessed on its own merit.

7.4.4 As regards impact on amenity, I note the concerns raised with regard to the proposed first floor level external terrace area and noise levels arising from same. The first party in response to the request for further information outlined a proposal for noise mitigation including provision of a set of acoustically lined screen doors which can be pulled across the opes to close space on the external walls, a reduction in number of doors accessing terrace and provision for acoustically absorbent surface to line internal ceiling and walls. I consider that in the context of the established uses in the vicinity the additional noise level arising above ambient noise is not significant. I further note that the predominant uses in the vicinity are commercial and therefore there are no particularly noise sensitive receptors in terms of residential uses in close proximity to the site. Therefore, I consider that the noise likely to be generated in itself will not have a significant impact on the amenities of the area.

7.5 Appropriate Assessment

7.5.1 As regards 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 and projects on a European Site.

7.6 Environmental Impact Assessment

7.6.1 Having regard to the nature and scale of the proposed development, a change of use, renovations and renewal, and having regard to the separation distance to the nearest sensitive location. There is no real likely hood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

8.1. Arising from my assessment as set out above, I consider that the proposed development would give rise to an overconcentration of late night licensed premises in the area and would therefore be contrary to the proper planning and sustainable development of the area. I therefore recommend that the decision of Dublin City Council in this instance be upheld and permission refused for the following reasons and considerations.

Reasons and Considerations

It is considered that the proposed change of use providing for the development of an additional licensed premises at this location would result in an overconcentration of such land uses on Dame Street, a category 2 Retail Street, and Dame Lane, contrary to Section 16.32 of the Dublin City Development Plan which seeks to

discourage the overconcentration of such uses to the detriment of other uses. The proposed development would conflict with policy RD 13 which seeks to affirm and maintain the status of the city centre retail area as the premier shopping area in the State. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector
20th November 2018