



An
Bord
Pleanála

Inspector's Report ABP-301922-18

Development	Internal alterations to enlarge restaurant/public house, change of use, alterations and associated works
Location	2, Chatham Row, (1st Floor), 3 Chatham Row & 32 Clarendon Street, Dublin 2
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2649/18
Applicant(s)	James Dunne
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	James Dunne
Observer(s)	None
Date of Site Inspection	28 th September 2018
Inspector	Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is located on the corner of Chatham Row and Clarendon Street and incorporates No. 32 Clarendon Street, No. 2 Chatham Row (first floor) and No. 3 Chatham Row.
- 1.2. No. 32 Clarendon Street is in use as a public house (Bar Rua). No. 3 Chatham Row is in use as a restaurant and the first floor of No. 2 Chatham Row is in use as store rooms and staff room. There is outside seating to the front of No. 3 Chatham Row and on the Chatham Row frontage of No. 32 Clarendon Street.
- 1.3. The surrounding area is a mixture of uses one would expect in such a central city centre location including retail, office, café/restaurant as well as residential uses.

2.0 Proposed Development

- 2.1. Internal alterations to enlarge restaurant/public house, change of use, alterations and associated works

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Refuse permission for one reason as set out below:

'It is considered that the proposed change of use of no. 2 and 3 Chatham Row from restaurant use to restaurant/public house use and the amalgamation of these units with the adjoining unit no. 32 Clarendon Street would form a public house of a significant size and would not support the provision of a balanced mix of uses on this category 2 shopping street. It is considered that the proposed development would be detrimental to the character of the area and would fail to integrate successfully with the established pattern of development in the area which includes a mix of small scale commercial units fronting the street. The proposed development would not comply with the Z5 zoning objective of the area, which is to consolidate and facilitate the development of the central area, and to identify, re-inforce, strengthen and protect its civic design character and dignity. On balance, the proposed development would undermine the character of the subject site, the streetscape and the amenities

of nearby residents, would result in an undesirable precedent for further such development, would depreciate the value of property in the vicinity 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

The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

- Given that the ground floor of No. 3 Chatham Row has operated as a restaurant since 1997 the continuance of this unit as a restaurant would be acceptable.
- Concern with the proposed change of use to a public house and the amalgamation with the existing public house to form a public house of significant size
- Existing development on Chatham Row include a mix of small scale commercial units fronting the street and these contribute positively to the diversity, vitality and character of Chatham Row.
- Proposed amalgamation would have a detrimental impact on the character of the area.
- Application is a Category 2 shopping street – protects the primary retail function.
- Contrary to Section 16.32 of the Development Plan which discourages the development of 'super-pubs'.
- Recommendation was to refuse permission.

3.2.2. Other Technical Reports

Drainage - No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1. Transport Infrastructure Ireland – Section 49 contribution may be applicable.

3.4. Third Party Observations

3.4.1. One observation was received. This is summarised below:

- Existing seating should be modified/reduced.
- Licencing Issues.
- School of music on opposite side of the road/Impact on students.
- Compliance with Section 16.32 of the Development Plan.

4.0 Planning History

4.1.1. There has been a significant number of planning applications pertaining to all three units. Those of relevance are set out below.

32 Clarendon Street

2040/18 – Grant - The development will consist of change of use of the 2nd floor from kitchen & staff room to 2 no short term rental suites and associated alterations to internal layout.

2722/17 – Grant - The development will consist of alterations to layout approved in planning permission ref: 3645/16 to provide an additional short term rental suite at third floor level (to provide a total of 2no short term rental suites).

3645/16 – Grant - Change of use of top floor from Dining Room/ Bar to short term rental property and associated alterations to internal layout.

1466/03 –Grant – Retention of works to include the demolition of an existing single storey structure on Chatham Row and the construction of a two storey replacement, the extension at roof level and other works. This was subject to 6 conditions including condition 2 as follows:

- The second and third floor levels shall be used as function room only. REASON: To ensure an appropriate mix of uses and protect night time amenities in the area and to prevent an excessive concentration of the public bar use. To ensure that the intensity of the proposed use is in keeping with both the scale of the building and the pattern of development in the area

2 Chatham Row

3579/12 – Grant - For change of use from retail to coffee shop, alterations to shop-front, new canopy, signage and for street furniture on the public footpath in front of the unit.

5.0 Policy Context

5.1. Development Plan

5.1.1. The relevant development plan is Dublin City Council Development Plan 2016-2022. The site is zoned Z5 - Land-Use Zoning Objective Z5: - This allows for mixed-use development within the City Centre. The site lies adjacent to an Architectural Conservation Area and lies partially within a Conservation Area.

5.1.2. Relevant policies and standards include:

- Policy CHC1 – To seek preservation of built heritage.
- Policy CHC2 – To ensure that the special interest of protected structures is protected.
- Policy CHC4 – To protect the special interest and character of all Dublin’s Conservation Areas
- Policy CEE12 –To promote and facilitate tourism as one of the key economic pillars of the city’s economy – This supports the increase in tourist facilities including cafes and restaurants.
- Objective CHCO28 – To discourage overconcentration of large public houses in any particular area.
- Section 16.29 – Restaurants- Provides guidance for the consideration of restaurant proposals.
- Section 16.32 - Night Clubs/Licensed Premises/Casinos/Private Members’ Clubs
- Appendix 24: Protected Structures and Buildings in Conservation Areas.

5.2. Natural Heritage Designations

5.2.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The First Party Grounds of Appeal are as follows:

General

- This development is not a substantial development either in floorspace terms or in terms of capacity.
- Proposed internal links are a functional necessity required to facilitate the service of food and beverages to patrons.
- Currently food prepared at No. 3 Chatham Row has to be taken outdoors in order to be served to customers seated in the public house at No. 32 Clarendon Street (Bar Rua)/unacceptable for commercial, efficiency and health and safety reasons.
- Combined customer floor area over the two premises is 98.6 sq. m. This is not large.
- The need to extend laterally to Nos. 2 and 3 Chatham Row exists because the unit at No. 32 is so shallow and also is relatively modest in terms of width presented to the street.

Change of use

- The proposal is seeking a change of use at No. 2 Chatham Row (first floor only) and No. 3 Chatham Row (ground and first floor) from restaurant use to public house/restaurant use.
- No 3 has operated as a restaurant for over 20 years.
- Dining area at No. 3 Chatham Row will be capable of being used as an extension to the existing bar at No. 32 – restaurant use on the ground floor of No. 22 will also facilitate independent use as a restaurant in the form of the ‘Catch 22’ concept for those not coming through from No. 32. The first floor will be

predominantly used as a restaurant with occasional use as a bar extension for busy periods such as Christmas.

- A small area of the top floor of No. 2 would be used for private dining.
- Category 2 retails street applies to streets where there is already a mixture of retail and non-retail uses or where there is potential to strengthen the retail and complementary uses on under-performing streets – there is no evidence that this in an under-performing street or that its retail or complementary uses need protection.
- No. 3 is already in non-retail use and has been for the last 20 years.
- The public house at No. 32 is also well established.
- Area on the first floor of No. 2 (14.1 sq. m) for which permission is sought for dining in no way affects the continued use of the ground floor of No. 2 as a coffee shop or retail use.
- The current use of No. 3 Chatham Row is as a restaurant and the upper floor presents an opportunity for additional modest and occasional pub business to be accommodated.
- When the customer areas on both the ground floors and first floors of No. 3 Chatham Row are combined, it equates to a total customer floor area of just 119.5 sq. m.
- No definition of superpub in the plan.
- The total floor area over two floors available for customer use will measure approximately 217.3 sq. m. but with a mixture of public house and quite separate restaurant use/concept.
- The 2nd floor area of No. 3 Chatham Row would be used primarily as a restaurant with only temporary/occasional use a part of the existing public house.
- The 1st floor of No. 2 Chatham Row would be used for occasional dining only.
- Proposal does not exhibit the characteristics of a superpub – large freestanding areas usually with dance/disco areas.

- There are no conditions in any prior consents covering unit's 32, 3 and 2 that would prohibit extended public bar or restaurant use.
- No change to the mix/balance of uses in the area – therefore is in compliance with Section 16.32 of the Development Plan.

Alterations

- The proposed sliding windows and doors are to improve service to patrons seated in the outside areas/alterations are minor/buildings are not Protected Structures.

Design/Impact on the Character of the Area

- Proposal site relates to Chatham Row and Clarendon Street. Chatham Row has smaller units while Clarendon Street has larger frontages/single use buildings. Also larger units on surrounding streets.
- Proposal reinforces the vibrant mix of uses locally.
- Proposed alterations to the entrance to No. 3 Chatham Row is intended to provide a clearer expression of the dining offering – can access the restaurant by going up the stairs without passing through the ground floor bar.
- Complaint with the zoning objective.

Impact on Residential Amenity

- No objections from any residents in the area.
- Proposed development is not seeking an extension of opening hours.
- Proposal will not generate any meaningful increase in noise or nuisance.
- Increase in customer numbers would be modest.
- No takeaway facility that can create litter problems.
- Will not generate an increase in odours or smell.
- No loss of value to property.

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. None.

7.0 Assessment

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows: -

- Principle of the proposed development
- Concentration of Licenced Premises/ Balance of Uses
- Impact on the Architectural Conservation Area/Conservation Area/Design Issue
- Impact on Residential Amenity/Property Values
- Appropriate Assessment
- Environmental Impact Assessment

7.2. Principle of Development

7.2.1. Under the Z5 zoning, both restaurants and public houses are permissible uses. The principle of a change of use from restaurant to public house/restaurant use in this location is therefore acceptable, subject to other considerations as detailed below.

7.3. Concentration of Licenced Premises/ Balance of Uses

7.3.1. There is an existing public house use on the ground and first floor levels of No. 32 Clarendon Street (Bar Rua). The upper floors are in use as short-term let residential accommodation, operating under previous planning permissions. There is no change of use proposed to this unit.

7.3.2. There is an existing restaurant at ground and first floor levels of No. 3 Chatham Row, which also serves food to customers of the public house at No. 32 Clarendon Street, and this has to be taken outside in order to be brought to No. 32.

7.3.3. It is proposed to change the use of both the ground floor and the first floor No. 3 Chatham Row to restaurant/public house use and to provide an internal link at ground floor level from No. 32 Clarendon Street to No. 3 Chatham Row. The appellant has indicated that No. 3 will still primarily operate as a restaurant, with the

top floor operating under the 'Catch 22' concept. There will be occasional uses of this floor as a public house during busy periods such as Christmas.

- 7.3.4. The first floor of No. 2 Chatham Row is currently in use as staff rooms and staff offices. It is proposed to change the use of a small area of this area to a private dining use. There is an existing link at first floor level to from No. 3 to No. 2.
- 7.3.5. The local authority has concerns that change of use, and the amalgamation of the units, would lead to a public house of significant size and would not support a balanced mix of uses, with a detrimental impact on the character of the area, which is one of a mix of small scale units. It was further considered the proposal would impact negatively on the residential amenity of the area and would impact on property values.
- 7.3.6. The appellant contends that the total combined customer floor area of 217 sq. m. in no way constitutes a 'superpub' and that much of this area is currently in restaurant use and would remain primarily in use as a restaurant. It is further contended that the character of the area is mixed and this proposal would add to the diversity of uses in the area with no impact on residential amenity or property values.
- 7.3.7. Objective CHC028 aims 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.
- 7.3.8. Section 16.32 'Night Clubs/Licensed Premises/Casinos/Private Members' Clubs notes the need to strike an appropriate balance between the role of these entertainment uses in the economy of the city and (i) the need to maintain high-quality retail functions on the primary city centre streets and ensure a balanced mix of uses and (ii) to protect the amenities of residents from an over-concentration of late night venues. It is further stated that noise emanating from these premises will need to be addressed in planning applications for such establishments.
- 7.3.9. My observations on site were that No. 32 was operating a public house with relatively limited amount of floor area, over two floors. No 3 Chatham Row is operating as a restaurant at ground and first floor level, although there is a bar of relatively significant size at ground floor level. The first floor level is mainly seating.

- 7.3.10. The application details a total combined floor area of 448 sq. m of public house use, over the three units. The appellant notes that the area that the actually available for customer seating/standing is 217 sq. m, excluding the storage/kitchen/bar areas. While I note the appellant's comments relating to the limited use of the first floor area of No. 3 Chatham Row as a public house, which will be confined to busy periods, I consider that this would be difficult to control or enforce. However the proposals do allow for customers for a separate entrance to the first floor, to facilitate direct access to the dining area on the first floor.
- 7.3.11. Overall I do not consider that the overall floor area proposed for public house/restaurant use is excessive. While three units are effectively combined, each of these units has limited floorspace, and the resultant public house/restaurant floorspace is subsequently limited. Furthermore, a significant amount of this floorspace will be used for dining purposes, as is the case at present.
- 7.3.12. The site lies within an area identified as a Principal Shopping Street (a Category 2 street), where the overall aim is to preserve the primary retail function of the street. There is no loss of retail in this instance. However, a further criteria set out in Section 16.29 is the need to safeguard the vitality and viability of shopping areas in the city and to maintain a suitable mix of retail use.
- 7.3.13. In relation to the balance of uses in the area it is my view that the proposals would not lead to a significant imbalance of uses in the immediate area, which is defined by a wide diversity of uses such as one would expect in a central city location, and the change of use proposed here would not materially impact this diversity. As such I do not share the concerns of the local authority in relation to the balance of uses in the area.

7.4. Impact on the Architectural Conservation Area/Conservation Area/Design Issues

- 7.4.1. In terms of the impact on the Architectural Conservation Area (ACA) and the Conservation Area, I note that the appeal site adjoins an ACA the boundary of which runs to the west and north of No. 2 Chatham Row. No. 32 lies partially within a Conservation Area. The local authority has concerns that proposal would fail to integrate with the established character of smaller units in the area. In relation to the issue of smaller units, there are two strands to this issue, one being the size of the

public house/restaurant use proposed, and the other being the impact of the works to the shopfront. The issue of the size of the unit is considered above, and as noted, the resultant size of the public house/restaurant is not excessive and subsequently the character of the area would not be significantly altered by same.

- 7.4.2. The works to the shopfront are relatively minor and the overall change in appearance is relatively insignificant, with a very limited impact on the character of both the ACA and the Conservation Area.

Impact on Residential Amenity/Property Values

- 7.4.3. I note that no specific objections relating to impact on residential amenity from nearby residents were received at application stage. I do not consider that the proposed restaurant/public house use would impact materially on residential amenity, nor would the proposal impact negatively on property values in the vicinity, having regard to the limited overall floorspace and the operating hours as set out by the appellant (11.30pm Mon-Thurs, 12.30am Fri/Sat, 11pm Sun), as well as having regard to the central location of the site where existing noise levels are generally higher than other less central locations.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the proposed development within a serviced area and separation distance 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 the conservation objectives of any 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 and external works, and having regard to the separation distance to the nearest sensitive location, there is no real likelihood 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. I recommend that permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the zoning objective for the site and the policies of the current Dublin City Development Plan 2016-2022, it is considered that the proposal would not result in a public house/restaurant of excessive size, would not result in an imbalance of uses or loss of diversity in the area, would not be detrimental to the character of the adjacent Architectural Conservation Area or the character of the Conservation Area, would not impact on residential amenity nor would the proposal impact negatively on property values in the area. The proposed development 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. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the buildings unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

3. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will 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.

4. The developer shall comply with the requirements set out in the Codes of Practice from the Drainage Division, the Roads and Traffic Department and the Noise and Air Pollution Section of Dublin City Council.

Reason: To ensure a satisfactory standard of development.

Ronan O'Connor
Planning Inspector

1st October 2018