



An
Bord
Pleanála

Inspector's Report ABP 303135-18

Development

Change of use from Tourism Information Centre to licensed food hall, dining cultural space and annex banqueting hall. Three new extensions plant, storage and waste management services, removal of internal partitions. Removal of carparking and installation of hard and soft landscaping and movable seating, Signage (Totem signs, banner signs and steel framed signs.) Link canopy structure and site works.

Location

St. Andrew's Tourism Centre,
Suffolk Street/St Andrew Street,
Dublin 2. (Protected Structure)

Planning Authority

Dublin City Council.

P. A. Reg. Ref.

2513/18

Applicant

Mink Fusion Ltd.

Type of Application

Permission.

Decision

Grant Permission.

Appellant

Mink Fusion Ltd

Observer

Transportation Infrastructure Ireland.

Date of Site Inspection

4th March, 2019.

Inspector

Jane Dennehy

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1.0 Site Location and Description

- 1.1. St Andrew's Church and Parochial Hall are located on a site with a stated area of 2,696 square metres at the junction of Suffolk Street, St. Andrews Street, Church Lane and Trinity Street, to the north of Wicklow Street and Exchequer Street to the west of Grafton Street and to the south of Dame Street. St Andrew's Church is an important landmark building dating from the mid nineteenth century. The church, which has been deconsecrated is unoccupied but formerly was in use as Tourist Information Centre, Exhibition Centre and a café. It has been previously modified and adapted to facilitate the use as a tourism centre and associated uses in 1994 and is unoccupied at present.
- 1.2. The grounds to the west side of the Church and Parochial Hall to the rear are laid out as a carpark and a statue of St Andrew is located at the southern end. The plots of the buildings on the north side of Wicklow Street adjoin the southern boundary, a building in which the "Salamanca" restaurant is operated at ground floor level is located to the west side of this space along the northern street frontage of which there are cast iron railings mounted on granite plinths and a vehicular gate. To the east side of the church behind cast iron railings on granite plinths there is a smaller open area containing some vegetation between the church and the buildings on Suffolk Street.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for:
- Change of use from Tourism Information Centre to licensed food hall, dining cultural space and annex banqueting hall.
 - Construction of three new extensions
 - Construction of a Link canopy,
 - Provision for plant, storage and waste management services,
 - Replacement of carpark with hard and soft landscaping and movable seating,
 - Erection of Signage (Totem signs, banner signs and steel framed signs.)

Also included are proposals for lighting, conservation repair and maintenance works and removal of internal partitions and all site works.

- 2.2. The applicant intends carryout alterations, modifications, additions and an external plant are for the buildings to provide for a foodmarket / foodcourt with provision for food stalls and seating.
- 2.3. The carpark is to be resurfaced with granite unit paving a gravel effect paving and external seating and dining area to be used in connection with the banqueting hall and food hall use. are to be provided to the west of the entrance, at the rear of the church and in the garden area to the east.
- 2.4. The application is accompanied by site and buildings are in the ownership of Failte Ireland and it has provided written consent to the applicant for lodgement the application.

3.0 Planning Authority Decision

3.1. Decision

Further to issue of a multiple item request for additional information in respect of the proposals for signage, landscaping and external seating arrangements, noise impact assessment, mechanical and electrical, conservation issues, and archaeological issues and scope for provision for pedestrian routing through the site having regard to opportunities for public realm enhancements provided for in the Grafton Street Quarter Public Realm Plan, 2013 to which a response was received by the planning authority on 5th October, 2018, it was decided to grant permission subject to conditions the requirements of most of which are of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer having considered the original and further information submissions and the comments and recommendations in the technical reports, concluded that the proposed development is satisfactory.

3.2.2. **Other Technical Reports**

Conservation Officer: The final report of the Conservation Officer indicated satisfaction with the proposed development further to review of the further information submission which included details of a stone cleaning methodology, wrought iron repair methodologies and a specification for the external lighting scheme. Further details and clarification are required on several outstanding issues which it is recommended be addressed by compliance with conditions and the opportunity for bringing the vacant buildings back into use is welcomed.

City Archaeologist. The final report of the City Archaeologist indicated satisfaction with the proposed development with regard to potential impact of the works on subsurface archaeological material, further to review of the additional archaeological impact assessment report completed further to consultation with the City Archaeologist's Office and included in the further information submission. An archaeological monitoring condition is recommended.

3.3. **Prescribed Bodies**

Transportation Infrastructure Ireland in a written submission indicates a request for attachment of a condition providing for payment of section 49 Supplementary Development Contribution Condition, if applicable, should Permission be granted.

3.4. **Third Party Observations.**

3.4.1. Observations were submitted by two parties, Popple Investments Ltd., and the Dublin Literary Pub Crawl.

3.4.2. The concerns of Popple Investments are as to the extent and intensity of the proposed use of the external space. It is requested that the applicant be required to prepare a noise impact assessment report and that conditions be attached, of permission is granted for restriction of hours operation of the external area. If permission is granted it is requested that a requirement for restriction to use ancillary to the restaurant use and restriction of use of external speakers and amplified music in the external space be imposed.

- 3.4.3. Potential noise disturbance is also the concern of the Dublin Literary Pub Crawl. The walking tours stop at the Church so that the church and its historical connection as the old Viking Parliament house can be viewed and described in a peaceful setting.

4.0 Planning History

Under P. A. Reg. Ref. 1069/94, Permission for change of use to Tourist Office, Exhibition Hall, restaurant and offices was granted. Details are not available.

According to a review the City Council's website there is a planning history for St Andrew's Church. Brief details from the information available follow.

P. A. Reg. Ref. 2046/98: Permission was granted for erection of a stone column for display of information.

P. A. Reg. Ref. 1603/99: Permission was granted for Café style tables and chairs in the curtilage for use in connection with restaurant café use at St. Andrew's. By condition the number of tables was limited to a total of six and the duration of the grant of permission was to expire in 2001.

P. A. Reg. Ref. 1559/00: Permission was granted for installation of decorative railings.

P. A. Reg. Ref. 0180/15: Section 5 Declaration on change of use of the structure.

P. A. Reg. Ref. 3559/15: Permission was granted for a Change of use to Exhibition Centre.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022 (CDP) according to which the site is subject to the 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."*

St Andrew's Church is included on the record of protected structures. (Ref. 7563)

Two recorded monuments are located on the site. They are: DU018-0200047 (Religious House – Augustinian of Arouaise nuns) and DU018-0200072 (Church and Graveyard) The site location is also within the zone of archaeological potential for Recorded Monument DU018-020 (Central Dublin).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was received from Manahan Planners on behalf of the applicant on 3rd December, 2018. The appeal is against the inclusion of Condition No 4 (c) which is attached to the planning authority decision to grant permission and it is reproduced in full below:

“c) The proposed outdoor seating shall be for dining purposes only, shall be closed between the hours of 10.00 pm ad 0800 am daily and there shall be no live musical performances or speakers erected externally or directly into external areas.”

The reasoning provided for Condition No 4 is:

“In the interest of orderly development and visual amenity”.

According to the appeal:

- The requirement of Condition No 4 (c) is “overly restrictive”;
- That there is no basis for the 10 pm closing restriction;
- Similar venues through the city are not subject to this restriction and,
- The restriction has *“the potential to derail the entire project.”* The project involves considerable investment, including the refurbishment of the protected structure.

It is confirmed that the applicant fully accepts the restriction on musical performances and external speakers in the outdoor area.

6.2. Planning Authority Response

There is no submission from the planning authority on file.

6.3. Observations

Transportation Infrastructure Ireland in a written submission dated, 7th December 2018 indicates a request for attachment of a condition providing for payment of section 49 Supplementary Development Contribution Condition, if applicable, should Permission be granted.

7.0 Assessment

7.1. The appeal is for the removal of the requirement under Condition No 4 (c) attached to the planning authority decision according to which the outdoor seating which shall be for use for dining purposes only is not to be in use between the 10 pm and 8.00 am. It is confirmed in the appeal that the applicant has no objection to the exclusion from of live performances or use of speakers in the external space in which the outdoor seating is to be located.

7.1.1. The documentation available in connection with the application and the technical reports and associated documentation issued by the planning authority in connection with its assessment have been fully reviewed. It is considered that there are no issues arising that would warrant *de novo* review and consideration of the application. It has therefore been concluded that *de novo* consideration of the proposed development, that is, consideration as if the application had been lodged with the Board in the first instance is unwarranted. In view of the foregoing, it is considered appropriate for the appeal, which is solely against Condition No 4 (c) be determined in accordance with the provisions of section 139 of the Planning and Development Act, 2000, as amended.

7.1.2. The site location is within the main commercial core of the city and within the area which is a destination in which restaurant, café and bar facilities are clustered and which attracts, business, residents and visitors to the city. These uses in conjunction with other cultural, commercial, retail and residential land uses are consistent with the CDP 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.”* and associated strategic and local objectives for the city centre.

- 7.1.3. It is considered that the effectiveness of management measures proposed in the noise impact assessment to assist in the control of noise that would emanate from the outdoor seating area would be dependant on an ongoing commitment to ensure their strict implementation. Furthermore, the scope for control of noise outside the perimeter of the site is very limited. On the other hand, the area is not a residential area but a mixed use but predominantly commercial area within which there is an element of residential use which should be enabled to co-exist without conflict with commercial and related uses. It is also important that the encouragement of residential use within the central city areas provided for in the CDP should not be hindered.
- 7.1.4. It is considered that it is during weekends in periods of good evening time weather it is most likely that the external seating area could give rise to undue noise disturbance. It is not apparent as to whether it is to be a designated smoking zone. It is noted that the music performances and amplified music through use of external speakers are excluded, according to the condition from the external space and that the applicant accepts this requirement. Taking this into account along with the relatively small size of the external space it is considered that use of the use of the outdoor seating for dining purposes by patrons would not result in a major increase in potential noise disturbance and nuisance over and above the prevailing ambient levels that occur in the public realm due to pedestrian and taxi and associated movements through and to and from restaurant, café and bar and similar destinations at night time, some of which may provide a modest amount of outdoor seating areas for patrons' use.
- 7.1.5. It is recommended that the external seating area should be closed to use by patrons before close of business to discourage patrons from lingering in the external space following close of business at 0.30 hours. On the other hand, closure at 10 pm is considered to be particularly onerous. In view of these observations, it is considered that a reasonable balance in allowing for operation of the business and providing for protection of residential amenities can be reached by allowing for closure of the external area at 11 pm. It is therefore recommended that Condition No 4 (c) be attached but that it should be revised to allow for substitution of 11 pm for 10 pm in the requirement for closure of business at night time.

7.2. **Environmental Impact Assessment Screening.**

Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.2.1. **Appropriate Assessment Screening.**

7.3. Having regard to the small-scale nature of the proposed development and, to the serviced inner suburban location, no Appropriate Assessment issues proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site

8.0 **Recommendation**

8.1. In view of the foregoing, it is recommended that the appeal be determined in accordance with the provisions of section 139 of the Planning and Development Act, 2000 as amended and that Condition No 4 (c), the appealed condition be attached with revisions. Draft reasons and considerations and a draft condition follow.

9.0 **Reasons and Considerations**

Having regard to the Dublin City Development Plan, 2016-2022 according to which the 'Z5' zoning objective is, "*To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity*"; to the limited extent and intensity of the proposed use of the outdoor seating for dining purposes and to the extent and nature of existing restaurant, bar and café and associated uses within the area it is considered that, subject to compliance Condition No 4 (c) as amended, the proposed development would not seriously the residential amenities of residential properties in the vicinity of the amenities of the public realm and would be in accordance with the proper planning and sustainable development of the area. Condition No 4 (c) The use of the

use of the outdoor seating area shall be confined to dining purposes only between the hours of 0800 am and 2300 pm daily.

10.0 Revised Condition (Draft)

Condition No 4 (c)

No live music may be performed, and no speakers may be installed or used to play music into the external space at any time within the site.

(Reason: In the interest of orderly development and visual amenity.)

Jane Dennehy

Senior Planning Inspector

5th March, 2019.