



An  
Bord  
Pleanála

## Inspector's Report ABP-303245-18

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<b>Development</b>	Protected Structure; Development of off licence subsidiary to main retail use.
<b>Location</b>	36, College Green, Dublin 2.
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	4026/18
<b>Applicant(s)</b>	Triode Newhill Management Services Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Triode Newhill Management Services Ltd.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	14 <sup>th</sup> February 2019
<b>Inspector</b>	Ronan O'Connor

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## 1.0 Site Location and Description

1.1. The site is an existing retail unit at the ground floor of a four storey over basement structure. The building is a Protected Structure. The site occupies a central city location approximately 20m west of Trinity College.

## 2.0 Proposed Development

2.1. Protected Structure; Development of off licence subsidiary to main retail use.

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse for one reason as follows:

*It is considered that the use of the premises at No. 36 College Green (Protected Structure) as a convenience store does not have Planning Permission and would require a change of use application. It is considered that the subsidiary off-licence would facilitate a development which does not have the benefit of planning permission and the Planning Authority is therefore precluded from considering Grant of Planning Permission. The proposed development would therefore 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:

- Serious reservations regarding the proposed off-licence in this Protected Structure.
- Planning permission required for a change of use from the pre-existing book store to a convenience store.
- Cannot grant permission for a subsidiary off-licence within a convenience store that may be considered unauthorised.

3.2.2. Other Technical Reports

Drainage – No objection.

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland – Section 49 Levy may apply.

3.4. **Third Party Observations**

3.4.1. None.

4.0 **Planning History**

36 College Green

2402/16 – Refuse – Retention of fascia sign.

119 Grafton Street, 37 College Green & Basement of 36 College Green

1655/08 – Grant - Change of use of the existing ground floor retail unit at no. 119 Grafton Street, from retail, office, ancillary and storage, to retail, office, ancillary storage and sale of intoxicating liquor (for consumption off the premises) at ground floor level. Internal and external /signage.

Enforcement

0690/15 – alleged works to a protected structure in the absence of planning permission.

0613/17 – alleged change of use to a grocery, unauthorised signage/sandwich boards.

5.0 **Policy and Context**

5.1. **Development Plan**

5.1.1. The relevant development plan is Dublin City Council Development Plan 2016-2022. Relevant policies and standards include:

- Policy CHC4 – To protect the special interest and character of all Dublin’s Conservation Areas
- Policy RD5 – Relates to Off-Licences
- Appendix 24: Protected Structures and Buildings in Conservation Areas.
- The site is zoned Z5 - Land-Use Zoning Objective Z5: - This allows for mixed-use development within the City Centre.

5.1.2. The following Section 28 Ministerial Guidelines are of relevance to the proposed development:

- Architectural Heritage Protection Guidelines for Planning Authorities (2011)

## 5.2. **Natural Heritage Designations**

5.2.1. None.

## 5.3. **EIA Screening**

5.3.1. Having regard to the nature and scale of the proposed development, a change of use, 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.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

6.1.1. The Grounds of Appeal as submitted by the First Party Appellants are as follows:

- Change of use to a convenience storage does not require a change of use application.
- Application should not have been refused on this basis.
- Development would not be contrary to the proper planning and sustainable development of the area.

- Long standing commercial use at the appeal site.

## 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
- Impact on Amenity/Concentration of Off-Licences
- Impact on the Protected Structure
- Appropriate Assessment

## 7.2. Principle of Development

- 7.2.1. The proposal is for an ancillary off-licence operating within the current retail store. I note the planning authority refused the application on the basis that permission was needed for the change of use from a bookstore to a convenience store, and that allowing the change of use would facilitate a use that did not have the benefit of planning permission. This appears to be the only issue.
- 7.2.2. My opinion is that both a bookstore, and a convenience store, fall within the definition of a shop, as defined within the Planning and Development Regulations, 2001 (as amended) and that, therefore, no change of use is required. As such, the reason for refusal is not justified in my opinion.
- 7.2.3. I note that, under the Z5 zoning, a part-off licence is a permissible uses. The principle of this use in this location is therefore acceptable, subject to other considerations as detailed below.

### **7.3. Impact on Amenity/Concentration of Off-Licences**

- 7.3.1. Policy RD5 of the Development Plan seeks to prohibit the further expansion of off-licences or part off-licences unless a compelling case can be made that there is not an over-concentration of such uses in any one area. In this respect, any application for an off-licence/part off-licence should include a map of all such establishments located within a 1km radius of the proposed development.
- 7.3.2. The applicant has provided a map indicating off-licence establishments within a 500m and a 1km radius of the site has been provided. There is a significant number of establishments (26 in total) within a 1km radius. However the site is located within a very central location within Dublin City Centre, and this somewhat unsurprising. I do not consider that an additional off-licence within a convenience store would lead to an over-concentration of such uses, leading to negative impact on the amenities of the area.

### **7.4. Impact on the Protected Structure**

- 7.4.1. There is an existing convenience store on site. A Conservation Method Statement was submitted with the application. This states that the application does not involve works to the protected structure. In conclusion I am satisfied that there is no material impact on the Protected Structure as a result of this use.

### **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.

## **8.0 Recommendation**

- 8.1. Grant permission.

## **9.0 Reasons and Considerations**

Having regard to the central city location, the zoning objective for the site and the policies of the current Dublin City Development Plan 2016-2022, it is considered that

the proposed development would not lead to an over-concentration of off-licence uses and would not seriously injure the residential or visual amenity of 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. The application hereby approved is for the development of an off-licence subsidiary to main retail use only and does not authorise any other development or works. In particular it does not authorise any fascia signage.

**Reason:** In the interest of proper planning and development.

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Rónán O'Connor  
Planning Inspector

25<sup>th</sup> February 2019