



An
Bord
Pleanála

Inspector's Report

ABP-305942-19

Development	Demolition and construction of building for use as retail and boutique hotel
Location	1-4 Merchant's Arch/15 Temple Bar, Dublin 2
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3164/19
Applicant(s)	Sandra Doone
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Temple Bar Residents
Observer(s)	Crampton Buildings Residents Group An Taisce
Date of Site Inspection	03/03/2020
Inspector	Gillian Kane

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	4
3.4. Third Party Observations	4
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Dublin City Development Plan 2016-2022	6
5.2. Natural Heritage Designations	7
5.3. EIA Screening	7
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Applicant Response	11
6.3. Planning Authority Response	12
6.4. Observations	12
7.0 Assessment.....	13
7.2. Principle of the Proposed Development	13
7.3. Height and Design.....	15
8.0 Appropriate Assessment.....	17
9.0 Recommendation.....	17

1.0 Site Location and Description

- 1.1.1. The subject site refers to a two-storey building at the junction of the northern side of Temple Bar Square and Merchants Arch in the centre of Temple Bar, Dublin City Centre.
- 1.1.2. Currently on site is a two-storey structure with an un-stated use on the upper floors and a range of small retail units on the ground level. One unit opens directly on to Temple Bar Square and a further three open on to the adjoining Merchants Arch lane to the west. To the immediate east of the subject site is a three-storey building, to the east of which are two-storey buildings. To the west of the site are a series of three-storey commercial buildings fronting on to Temple Bar Square. To the south of the subject site is the imposing four storey red-bricked Telephone Exchange Building.

2.0 Proposed Development

- 2.1. On the 4th June 2019, planning permission was sought for the demolition of an existing two-storey over basement building (186sq.m.) and the construction of a 5-storey over basement building with retail use (83sq.m.) at ground level and hotel use on the upper floors (352sq.m.). Details provided in the application form include:
 - Total site area: 113sq.m.
 - Floor area to be demolished: 186sq.m.
 - Proposed new build floor area: 515sq.m.
 - Proposed plot ratio: 4.5, proposed site coverage 100%
- 2.1.1. The application was accompanied by a Planning Statement and an Architectural Report.
- 2.1.2. The proposed development was amended by way of further information. As discussed in section 3.5 and 3.6 below.

3.0 Planning Authority Decision

- 3.1. **Decision**
 - 3.1.1. On the 25th October 2019, the Planning Authority issued a notification of their intention to GRANT permission subject to 6 no. standard conditions.

3.2. **Planning Authority Reports**

- 3.2.1. **Engineering Department:** No objection subject to standard conditions.
- 3.2.2. **City Archaeologist:** Proposed development is in the zone of archaeological constraint for the recorded monument DU018-020 (Dublin City). Remains of late C17th / C18th development may survive at subsurface level within the subject site. Condition recommended.
- 3.2.3. **Transportation Planning Division:** No objection to lack of car or cycle parking given central location. Servicing arrangements and details of construction management plan needed. Recommendation to request further information.
- 3.2.4. **Planning Report:** Proposed demolition is justified. Proposed retail use at basement and ground floor is acceptable. Proposed streetscape will have a positive impact. Reservations over proposed ATM as it will diminish the design integrity. Proposed design is appropriate in a conservation area but proposed building should be subservient to the adjoining Merchants Arch. Proposed development should be reduced to 4-storey. Further information required.

3.3. **Prescribed Bodies**

- 3.3.1. **TII:** TII recommends the following conditions: The proposed development falls within the area for an adopted Section 49 Supplementary Development Contribution Scheme – Luas Cross City (St. Stephen's Green to Broombridge Line) under s49 Planning and Development Act 2000, as amended. If the proposed development is to be granted and not exempt, a s49 contribution levy should be attached.

3.4. **Third Party Observations**

- 3.4.1. A number of objections to the proposed development raised the following issues: historic status of existing building, proposed building is too high, too dense and will overshadow, too many licensed premises, balance of uses in area must be maintained, no need for more tourist accommodation.

3.5. **Request for Further Information**

- 3.5.1. On the 31st July 2019, the Planning Authority issued the following request for further information:

- 1 reassess the proposed height to 4-storey
- 2 consider omission of proposed ATM

- 3 a) confirm delivery and refuse collections arrangements
- b) submission of construction management plan

3.6. Submission of Further Information

3.6.1. On the 29th November the applicant responded to the FI request with revised proposals, namely a part 4, part 5 storey over basement building, the omission of the ATM, details of servicing from Wellington Quay and the submission of a construction management plan.

3.7. Reports on file following submission of FI

3.7.1. **Planning report:** response to FI is acceptable. Recommendation to grant permission.

4.0 Planning History

4.1.1. None referring to the subject site solely. The following refers to the site to the immediate north, comprising 48/49 Wellington Quay / 1-4 Merchants Architectural and which included the subject site:

4.1.2. **ABP-301816-18:** Permission REFUSED for the re-development of the site to provide for an enlarged restaurant / public house for the following reasons:

1. Having regard to the existing scale of the existing public house/restaurant at 48/49 Wellington Quay, and the extent of additional floorspace that is envisaged for such use at numbers 1 – 4 Merchant's Arch, it is considered that the proposed development would lead to a significant intensification of the existing use, and that a licensed premises of this significant scale would have a detrimental impact on the historic fabric and character of the subject site and of the local area. Furthermore, having regard to the resultant expansion of the public house/restaurant use into Merchant's Arch and Temple Bar Square, it is considered that the proposed development would lead to an over concentration of licensed premises in this area of the city, which it is the policy of the planning authority to discourage and restrict, and would lead to conditions that would seriously injure the residential amenities of existing residents in the area, by reason of additional levels of noise and disturbance. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the protected structure status of nos. 48/49 Wellington Quay, a building of significant historical importance and architectural character, it is considered that the proposed development would be contrary to sections 11.1.5.3 and 11.1.5.4 of the Dublin City Development Plan 2016 – 2022, where it is the policy of the planning authority to discourage any development which does not relate sensitively to, and complement the special character of, a protected structure. This policy is considered to be reasonable and in accordance with national policy in relation to Architectural Heritage Protection. The proposed merging of two or more units or buildings into one unit or building at ground and / upper floor level through the demolition of dividing walls or the provision of interconnecting doors or entranceways can only be permitted in exceptional circumstances, and it is considered that, in this instance, no such exceptional circumstance to warrant such intervention has been proven. In addition, it is considered that the proposed link between 48/49 Wellington Quay and Number 4 Merchant's Arch at ground floor, through the historic elliptical staircase, which is an important part of the special interest and character of the protected structure, would cause serious injury to the plan form of the staircase hall as well as negatively impacting on the clarity of the architectural space of the elliptical staircase hall concerned. The proposed development would, therefore, have a detrimental impact on the essential qualities of the protected structure, thereby materially affecting its character, would conflict with the policies of the Dublin City Development Plan 2016 – 2022, and would be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

- 5.1.1. The subject site is zoned **Z5 City Centre**, which has the stated objective 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'.
- 5.1.2. **Section 14.8.5** of the development plan states that the primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development. Permissible uses within the mixed use Z5 zone include hostel, hotel, office and residential.

5.1.3. **Development management standards** for Z5 zones include an indicative plot ratio of 2.5-3.0 and indicative site coverage of 90%.

5.1.4. **Policies and objectives**

Policy CHC1: seeks the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

Policy CHC2/4/5: seeks to ensure the protection of the special interest, character and setting of Protected Structures and all Conservation Areas.

Policy CHC9: seeks to protect and preserve National Monuments:

Section 11.1.5.6 refer to Conservation Areas

5.2. **Natural Heritage Designations**

The site is not located within or directly adjacent to any Natura 2000 sites. The South Dublin Bay and River Tolka Estuary SPA (site code 004024) is located 2.7km northeast of the site and South Dublin Bay SAC (site code 00210) is located 3.5km east of the site.

5.3. **EIA Screening**

Having regard to the nature and scale of the proposed development, the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. A third-party appeal against the decision of the Planning Authority to grant permission has been lodged by the Temple Bar Residents group. The grounds of the appeal can be summarised as follows:

- The proposed development must be viewed as part of the earlier proposal to extend the Merchants Arch pub into the first floor of the adjoining buildings.

Permission was refused by An Bord Pleanála. This application sought to re-use the existing buildings, the proposed development seeks to demolish them entirely.

- No justification for the demolition of the subject building has been presented. Given it's close association with the former proposal, the applicant's claims of no architectural merit, poor conditions, disrepair etc is stated to be incredible and glib. The Planning Authority's acceptance of this submission without evidence is questioned.
- The Planning Authority states that no pre-planning occurred. Yet the applicants report refers to a meeting of "spring 2019".
- The Board will note that notwithstanding the planning report recommending that a condition restricting the ground floor to retail use only, such a condition was not attached.
- The submitted plans lead one to assume that the ground floor and basement will form a single retail unit (one stairway). It is submitted that the proposed development is really a fully-licensed restaurant. As restaurant use is permissible under the general heading of "retail", the conversion of the unit to a restaurant may not need planning permission. It is submitted that if permission is granted, the applicant is only one step away from converting the entire area into a pub serving food and drink. The Planning Authority should have requested the applicant to enter into a covenant specifying the use of the basement and ground floor for retail use.
- The proposed development represents over-development of this small site (113sq.m.), with a plot ratio of 4.5:1 and a site coverage of 100%. The standards are 2:1 plot ratio and 90% site coverage.
- It is not clear to the appellants how the revised proposal "sits comfortably alongside the older built fabric and will assist in realising the Part 8 proposal for Temple Bar" as claimed by the applicant.
- The appellants, as residents of Temple Bar, strongly disagree with the applicants submission that the proposed development is an appropriate response to this prominent corner site. The appellants strongly disagree with the Planning Authority's assessment of the integration of the proposed building into the area.

- The appellants do not accept the Planning Authority's statement that the proposed development respects the character of the area. It is submitted that the proposed development will have a detrimental impact on the scale and urban grain of Merchants Arch and Temple Bar Square. The issues of urban grain and morphology have been ignored by the Planning Authority. There is no indication that the Planning Authority took account of the importance of the adjoining buildings.
- Merchants Arch has a rich urban history. Three retail units are open on the west laneway and four retail units are on the eastern side of the laneway, conjuring up a souk of sorts. It is submitted that the urban history of the lane was not taken into account by the Planning Authority who seem satisfied with a continuous plate-glass window on the ground floor with a single entrance on Temple Bar Square.
- Temple Bar Square derives from the Temple Bar Framework plan of 1991, which has as one of its objectives the creation of new public spaces. Buildings created on Temple Bar Square are three-storey, one with a corner feature. Infill developments should respect the scale and urban grain of the square.
- The one exception to this three-storey height is the Crown Alley Telephone Exchange. This important landmark built in 1897 and still in use now. This building should not be used as a reference point for the proposed development.
- The applicants claim that Temple Bar is ever evolving is questioned given that the square is three-storey on all sides. The Part 8 scheme of DCC relates exclusively to ground treatments only.
- The subject site which formerly housed the Ha'penny Bridge Book store and now the Irish Pub shop was three storeys in height. The top floor was removed at some stage. The flanking building on the west side is two-storeys.
- It is submitted that the proposed thin tower would "stick out like a sore thumb". The additional height would change the character of the laneway, blocking out sunlight from the east side and creating a lop-sided portal to Merchants Arch. The proposed development might create an impetus to replace other buildings in the area.
- The proposed single retail unit would replace 4 no. existing units.

- The proposed development involves the extension of the basement from its current location under no. 15 to right across the site – 20m x 5.5m. The proposed excavation would be extensive and would require protection from groundwater ingress.
- The indigenous small businesses in the lane deserve to be protected, in line with the intent of Temple Bar properties to create a bustling small business precinct. The proposed mono-functional unit and 10-bedroom boutique hotel is questioned in terms of credibility and viability.
- Red sandstone panels are unprecedented in Dublin.
- The narrowness of the laneway raises concerns for construction. The construction management plan is not reassuring. Surviving businesses on the laneway would be adversely affected.
- The closure or any restriction of the laneway would divert footfall to other areas within Temple Bar.
- The subject building could be upgraded, have an additional floor and therefore retain the “realness” of the laneway and respect the scale and urban grain of the area.
- Condition no 2 of PL29S.242458 specified no permission for a change of use to a public house was granted for a premises in Temple Bar. The premises has operated as a pub since that permission.
- Many properties in and around Temple Bar did not received planning permission for their changes of use. The Merchants Arch pub plays live music despite many conditions restricting same.
- There is concern about Dublin losing its culture.
- The proposed development is not the appropriate development for the subject site.
- The Board is requested to refuse permission.
- 20 no. images submitted.

6.2. Applicant Response

- The appellants claim that something untoward is or will happen is rejected.
- The subject site was purchased by the owner of the adjoining pub. When permission was refused for its expansion, a use had to be found.
- During pre-application discussions the applicant suggested a restaurant at ground level but this was rejected by the Planning Authority due to an oversupply in the area.
- The applicant should be commended not vilified for opting for a retail use.
- The appellants suggestion that the building can be re-used is not evidence based. The Planning Authority accepted that the demolition and re-build of the building was appropriate.
- A change of use from retail to a restaurant is a material change of use that requires permission.
- The scale of the proposed development is acceptable. It is subservient to the protected structure and the Telephone Exchange.
- The south-side of the square has a set-back fourth floor. They are equivalent to a five storey older building.
- All but one of the units on the lane are short-term leases, with a high turnover of occupiers. A single retail unit can attract a higher order retail trader, capable of paying a higher rate. The alternative is a series of low order retail units in an old building in poor condition.
- The appellant accepts the use of a 'corner feature' in the Square but not on the subject site.
- The Telephone Exchange is not the only building over three-storeys.
- Temple Bar Square is evolving having regard to the Part 8.
- Red sandstone is used throughout Dublin – Westmoreland Street, within Trinity College, Dawson House, the Grand Canal.

- Temple Bar Square is bound to the south by a mixed-use building with an overall height of 19.71m. The north-west corner building has an overall height of 19.19. the proposed building with a height of 20.2 is informed by these examples.
- The architectural quality of Temple Bar will not be compromised.
- The quality of south light will not be lessened or dimmed.
- The subject application must be assessed on its own merits.
- The Board is requested to grant permission.

6.3. **Planning Authority Response**

6.3.1. None on file.

6.4. **Observations**

6.4.1. **An Taisce:**

- Wishes to support the third-party appeal.
- An historic report was not submitted. The subject building is one of many that make up the character of Temple Bar. Together with the adjoining buildings of similar scale it frames the entrance to the narrow, granite-flagged historic alleyway.
- The retail units on the laneway include an unusual bow-window dating from early C20th.
- The regeneration of Temple Bar was based on reusing existing building stock.
- The demolition of the proposed building is not justified.
- The area is saturated with guest accommodation.
- Notwithstanding the reduction in height, the proposed building will obscure one of the most distinctive local views in the area – that of the calp-stone rear elevation of Merchants Hall. Policy SC7 of the development plan seeks to protect views into, out of and within the city and to protect existing landmarks and their prominence.

- The proposed development would create the conditions for the seeking of a licensed use. This mono-use would erode the vitality of the area already compromised by an overconcentration of licensed premises.

6.4.2. **Crampton Buildings Residents Group**

- Supports the third-party appeal.
- Proposed building would block sunlight to the west-facing windows and balconies of the Observers 28 no. apartments.
- The excavation would cause serious disruption through noise, dust and vibration.
- More tourist accommodation would further erode the residential aspect of Temple Bar.
- The merging of four retail units into one would confirm the move to a commercial rather than a cultural quarter.
- Entertainment noise breakout from the Merchants Arch pub will be intensified.
- The proposed development is a trojan-horse for yet another licensed premises.
- The proposed building is too high and would be out of character with Temple Bar Square.

7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Height and Design

7.2. **Principle of the Proposed Development**

7.2.1. The subject site is located in a Z5 mixed use area, on lands zoned for mixed use development. The principle of a retail and hotel development is acceptable and in accordance with the zoning objective for the subject site.

- 7.2.2. I note that the subject building was stated to be suitable for re-use and renovation under ABP-302816-18 but is stated in the subject application to require demolition. The development plan recognises the inherent sustainability of retention and refurbishment, compared with the whole life energy costs and waste impacts that would result from demolition and re-build. The re-use of existing structures preserves the embodied energy expended in the original build, minimises waste and reduces the use of new materials. I note the city councils policy SIO20 which seeks to promote sustainable design and construction to help reduce emissions from the demolition and construction of buildings. Given the environmental impact arising from demolition, the grounds for demolition of a building capable of re-use must be robust. Such a case has been made in this instance.
- 7.2.3. I note the appellants suggestion that the proposed two-storey retail unit is a back-door approach to an licensed premises. The applicant rejects the allegation and refers to the commercial issues around tenants / rents etc. The possible actions of the applicant in the future cannot be taken into consideration in the subject application. It would be inappropriate to decide within the subject application that the applicant *may* choose to do something at a future date. This is particularly the case where no evidence has been forthcoming that such an action is likely, and where the applicant has categorically stated that it is not their intention.
- 7.2.4. The ground floor of the subject building currently houses 4 no. small retail units – a phone repair shop, a waffle shop, a record shop and a shop fronting onto the square selling Irish goods. The lane is small, busy and full of character. The existence of independent traders creates a specific character to Temple Bar, adding to the diversity of the area. The Dublin City Development plan acknowledges the importance of Temple Bar as a cultural quarter (11.2.5.3 and Figure 18). It also recognises (section 11.1.5.6) that the character of a conservation area comprises more than just buildings or visual elements, that land-uses and activities are fundamental to the character and appearance of conservation areas. While the development plan is silent on what makes Temple Bar a cultural quarter, or indeed what is needed to protect the unique area, it is not unreasonable to presume that a certain element derives from the independent small businesses and traders. The proposed two-storey large unit with a single expanse of glass along the laneway would remove a degree of the uniqueness of the laneway, and the wider area. The

commercial sensitivities of operating a business are acknowledged, however they cannot be allowed to occur at the expense of the correct planning decision. The streetscape of the lane would be significantly negatively changed by the proposed development.

7.2.5. I note the small hotel entrance area, without a reception area. The proposed boutique hotel presumably is intended to be remotely serviced with access provided by key-card / internet access. The nature and extent of the proposed operation requires more detail.

7.2.6. I note policy SC25 which seeks to promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city's built and natural environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate.

7.3. **Height and Design**

7.3.1. The city development plan (section 16.7.1) requires that high buildings make a positive contribution to the urban character of the city and create opportunities for place-making and identity. Following a request for further information, the proposed building was reduced to a part 4, part 5 storey building. The applicant acknowledged the Planning Authority's concerns about height but stated that this could be resolved with a 4-storey over basement building that has a 5th floor pop-up at the southern boundary where the building addresses Temple Bar Square.

7.3.2. The revised proposal involves the omission of a store-room on the 4th floor to allow for a staircase to the single bedroom on the 5th floor. It is queried if the gain of a single bedroom is worth the creation of an additional floor, particularly where it involves the removal of a store-room from an already small floor plan.

7.3.3. The narrow form of the proposed building, along with the use of a double height window for the 4th and 5th floor creates a building that is strikingly at odds with its adjoining three storey neighbours. The vista from the central bank, down Crown

Alley and to Merchants Arch ends with the subject building. Its prominence is significant and the treatment of its elevation on to the square, of paramount importance. The lack of fenestration on the first and second floors and the use of a double height window for the fourth and fifth floors, creates a large blank elevation, lending no clues as to the function of the building. It distorts the reading of floor levels, to the extent that the juxtaposition with the adjoining typical fenestration and floor pattern is discordant.

- 7.3.4. The subject site is a corner building on paper, but it does not present or read as a corner. Merchants Arch laneway is narrow and busy, unlike the wide-open roads that create definition at the other corners on Temple Bar Square. There are corners and sites where a landmark building of greater height than its adjoining neighbours is appropriate. This can be seen to great success within Temple Bar. The subject site however, is not such a location. It does not present as a corner site and its restricted street frontage on the southern side does not lend itself to greater heights. The ratio of width to height on the southern boundary is a delicate balance and one which, in my opinion, would be better served by a three-storey building. This is in contrast to the adjoining Telephone Exchange, where the street frontage is of an extent that a greater than the prevailing height is a proportionate response. The scale of the Telephone Exchange and its presentation on to Temple Bar Square is not an appropriate reference point for the subject site.
- 7.3.5. To that end I note policy SC25 which seeks to promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city's built and natural environments. It is considered that the proposed development is contrary to policy SC25.
- 7.3.6. The subject site is also located in a conservation area. Policy CHC4 of the development plan seeks to protect the special interest and character of all Dublin's Conservation Areas. It states that development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. As discussed above, it is considered that the proposed development does not contribute to the area. The policy goes on to state that

development will not harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area. It is considered that the proposed development would negatively affect the historic Merchants Arch when viewed from Crown Alley and would not positively contribute to Temple Bar Square. Lastly, it is considered that the proposed development would constitute a visually obtrusive or dominant form. Therefore, the proposed development, is considered to be contrary to policy CHC4 which seeks to protect the special character of Conservation Areas.

8.0 Appropriate Assessment

- 8.1.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area and proximity to the nearest European site, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site

9.0 Recommendation

- 9.1. I recommend that permission be REFUSED for the following reasons and considerations:

- 1 It is considered that the proposed development, by reason of its height relative to surrounding buildings, scale, massing and bulk at this prominent site, would constitute overdevelopment of the site and would be out of character with the pattern of development in the vicinity. The proposed development would seriously injure the visual amenities of the area and therefore, be contrary to the proper planning and sustainable development of the area.
- 2 The proposed development of a part four, part five storey over basement building on a narrow plot, adjoining and bounding a narrow busy laneway, does not integrate well into Temple Bar Square where the prevailing height is three-storey. The subject plot is insufficiently wide to accommodate a building greater than three storeys. The subject site does not read as a traditional corner plot wherein a higher building can create a landmark feature. The proposed largely blank elevation onto Temple Bar Square and at the end of the vista leading from the

Central Bank down Crown Alley is visually discordant. It is considered that the proposed development is contrary to the Development Plan policy to protect Conservation Areas, namely Policy CHC4.

Gillian Kane
Senior Planning Inspector

09 March 2020