



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306746-20

#### Development

Removal/Deletion of condition number 2 of the Grant of Planning Permission Register Ref No. D18A/0078 and redesign of ground floor restaurant to be substituted by a food court.

#### Location

Ferry Terminal Building and adjacent lands, St. Michael's Pier, Harbour Road, Dun Laoghaire, Co. Dublin which is within a Candidate Architectural Conservation Area and in proximity to protected structures.

#### Planning Authority

Dun Laoghaire Rathdown County Council

#### Planning Authority Reg. Ref.

D19A/0947

#### Applicant(s)

Lapetus Investments Ltd.

#### Type of Application

Permission

#### Planning Authority Decision

Grant permission

#### Type of Appeal

Third Party

#### Appellant(s)

Ned Tobin

**Observer(s)**

Noel Brien

**Date of Site Inspection**

19<sup>th</sup> of November 2020

**Inspector**

Emer Doyle

## **1.0 Site Location and Description**

- 1.1. The subject site has a stated area of 1.044 hectares which currently accommodates the former Stena Ferry Terminal building and a former restaurant. The site is located at the end of St. Michael's Pier, Dun Laoghaire, Co. Dublin within a Candidate Architectural Conservation Area.
- 1.2. The existing building is of three/ four storey height. Surrounding the terminal are hardstanding areas which were previously used for the movement of passengers and freight using the Stena ferry service. A car park is located to the west of the building.

## **2.0 Proposed Development**

- 2.1. Permission sought for the removal/ deletion of condition number 2 of the grant of PA Reg. Ref. D18A/0078 together with the redesign of the ground floor entrance foyer area by the deletion of the ground floor restaurant and food vending café and its substitution by a 'food court' element.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission granted subject to 4 No. conditions. Noteworthy conditions include the following:

Condition No. 2 was as follows: Condition No. 2 of PA Reg. D18A/0078 shall be omitted in its entirety.

Condition No. 3 required that the co-working space, shown on drawing No. 235-PP-01 (Rev. A) date stamped 6<sup>th</sup> December 2019 in the approximate area of the permitted restaurant (under D18A/0078), shall form part of the proposed foodcourt area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- The planner's report considered that the principle of the change of use was not under assessment and had already been permitted under PA Reg. D18A/0078. It was noted that there is no proposal to re-develop the area at present and it was considered that its re-use for a temporary period of time, pending a more comprehensive redevelopment would be reasonable. Having regard to the issues of viability raised by the applicant in the Design Statement, a period of 15 years from the date of first occupancy was considered reasonable for the life of the permission.

### 3.2.2. Other Technical Reports

Transportation: The redesign of the restaurant element will have little overall effect on the Transportation element. No objection subject to conditions.

### 3.3. Prescribed Bodies

#### 3.3.1. No reports.

### 3.4. Third Party Observations

- 3.4.1. A total of 15 No. observations were received by the Planning Authority. The main points of the observations against the proposed development are similar to the appeal grounds. The observations in support of the proposed development considered that the development would bring major economic and social benefits to the area.

## 4.0 Planning History

### PA D18A/0078

Permission granted to Work Shack Ltd. for

1. Change of use of the existing building from passenger ferry terminal and 1<sup>st</sup> floor restaurant associated offices and stand-alone shed to the following: A Ground floor restaurant (approx. 176m<sup>2</sup>), B Option for proposed restaurant to be 2 storey (total approx. 390m<sup>2</sup>), C Co-working and team spaces on 3 floors (approx. 2,274m<sup>2</sup>), D Audio and visual media studios and workshops co-workers informal meeting area and agri/food/beverage R and D space (approx. 574m<sup>2</sup>). E Work-spaces for marine and maritime associated (897m<sup>2</sup>) F Marine technology and R and D space (approx. 234m<sup>2</sup>) G Food/coffee vending outlet (approx. 12m<sup>2</sup>) H New toilet accommodation

(approx. 62m<sup>2</sup>), all of which will be contained with the existing external walls of the buildings.

2. Change of the previous use of the hard-standing area to the west of the terminal building from vehicle waiting area to car park for the sole use of the users of the main building and associated fencing.

3. External signage, including illuminated signage, to be located on the existing building facades.

4. Creation of external deck to perimeter of 2<sup>nd</sup> floor mezzanine glazed tower.

5. Creation of new windows in the external façade.

6. Bicycle stand areas, including use of baggage offloading area to sheltered bicycle parking.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022.

- The site is zoned 'Objective W' – To provide for waterfront development and harbour related uses.
- The site is located within the 'boundary of lands for which a Local Area Plan will be prepared' that being Dun Laoghaire and Environs.
- The site is located within the Dun Laoghaire Urban Framework Plan area, Appendix 12.
- The site is located within a Candidate Architectural Conservation Area.
- The site is located within 'Corridor 1- Coastal' set out within 'DLR Green Infrastructure Strategy', Appendix 14.
- Relevant Specific Local Objectives include the following:

- 13: 'To facilitate the continued development of the Harbour, ensuring at all times that the historic significance and natural beauty of this public amenity is protected, in advance of the preparation of the Dun Laoghaire and Environs LAP, the future development of the Harbour will thereafter be guided by the principles and objectives of the Plan and that of Policy E14'.
- 77: 'To prepare a Local Area Plan for Dun Laoghaire and Environs.'
- 84: 'To protect and conserve South Dublin Bay Candidate Special Area of Conservation.'
- 93: 'To promote the development of the S2S Promenade and Cycleway as a component part of the National East Coast Trail Cycle Route. It should be noted that these coastal routes will be subject to a feasibility study, including an assessment of the route options. Any development proposals shall be subject to Appropriate Assessment Screening in accordance with the requirements of the EU Habitats Directive to ensure the protection and preservation of all designated SACs, SPAs, and pNHAs in Dublin Bay and the surrounding area.'
- 136: 'In order to promote and preserve the natural, marine and built heritage of Dun Laoghaire Harbour this Council will review the Harbour Heritage Management Plan 2011, with a view to considering same for inclusion in the County Development Plan 2016-2022, as appropriate.'
- 143: 'To encourage and support the Dun Laoghaire Harbour Company in the establishment of a diaspora centre within the Dun Laoghaire Harbour Area.'
- 156: 'In accordance with National Policy, the Council shall, within the relevant planning frameworks, formulate and implement, where appropriate and applicable, a plan for the future development of Dun Laoghaire Harbour and its curtilage.'
- 157: 'To support and encourage the development of a National Watersports Centre to facilitate training and participation in a varied range of water sports and activities to provide a focus for national and international watersport events. Site appraisal and analysis of the Harbour environs to identify the

optimum location(s) for such a centre to be expediated as an integral part of the forthcoming Dun Laoghaire and Environs Local Area Plan (LAP).

## **5.2. Natural Heritage Designations**

- 5.2.1. The site is located in close proximity to the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay Special Area of Conservation.

## **5.3. EIA Screening**

- 5.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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**

The grounds of appeal can be summarised as follows:

- Since the original permission was granted, the Irish Government has announced under their €100 million 'Large Scale Sports Infrastructural Fund' that the National Water Sports Campus will be developed in Dun Laoghaire Harbour and this clearly states that a major building will be essential.
- In addition, the Government has allocated €440,000 to fund a preliminary study of the project and Dun Laoghaire Rathdown County Council has allocated €100,000 for a study of how to develop the Harbour area.
- To grant planning permission before the completion of these two studies is a big mistake and would hamper the planned development of the National Water Sports Centre in Dun Laoghaire.



- The ferry terminal's extensive lands have been used regularly for 'Extreme Motor Car Races' major Rock Concerts, and other 'extreme events' sponsored mainly by Red Bull since the departure of the Stena Line service.
- These events attract huge numbers and cause noise pollution.

## 6.2. Applicant Response

The response from the applicant can be summarised as follows:

- The reason for requesting the amendment of the original term of the planning permission is set out in detail in the planning application. There are currently less than 8 years remaining on the original planning and by the time this appeal is resolved and the works necessary are completed to facilitate occupancy, there will be around seven years remaining.
- News of the proposed National Waters Sports Campus is warmly welcomed.
- We have met with the team working on the National Water Sports Campus and they have confirmed that the development of the planning permission granted under D19A/0947 does not in any way interfere with the proposed plans for National Water Sports Campus and have welcomed our business plan for Quarterdeck Innovation in Dun Laoghaire.
- It is understood that the Water Sports Campus and the development works associated with it, will be based primarily on the adjacent Carlisle Pier.
- It is not true that the Ferry Terminal's extensive lands have been used for extreme motor car races, rock concerts or other extreme events. It is understood that such events have been organised on lands adjacent to the Ferry Terminal which are owned by the County Council.

## 6.3. Planning Authority Response

- None submitted.

## 6.4. Observations

6.4.1. One observation was submitted which can be summarised as follows:

- The government has allocated funding of €100,000 for a feasibility study regarding the development of a national water sports centre at this location.
- In recent years there has been a tremendous growth in the numbers of people using the harbour for various water sports and it would be disastrous to grant permission before these studies are carried out.
- The land at this location has previously been used for large scale events such as motor car drifting, concerts, and other extreme sports. These events cause massive noise pollution and congestion in the area. The proposed development will need to hold similar events to attract people which will cause disruption to the public and impede on the tranquillity of the harbour.

## 7.0 Assessment

7.1. The main issues for consideration in relation to this appeal can be summarised as follows:

- Principle of Development
- Other Matters
- Appropriate Assessment

### 7.2. Principle of Development

7.2.1. The subject application seeks permission for the following:

1. To remove/delete condition No. 2 of the grant of planning permission on site, as permitted under D18A/0078.

2. To redesign the ground floor entrance area to provide a food court in lieu of the permitted design.

7.2.2. I note that no issues have been raised in relation to the second element of the application in terms of changing the permitted restaurant use to a food court use. Section 3 of the Design Statement submitted with the application describes this element as 'the swapping of one kind of food vending (the approved restaurant) with

another (the proposed food court) within the confines of the building. The permitted ground floor uses provide for a mix of co-working spaces, vending café area, restaurant, kitchen and associated areas. The applicant proposes to revise these spaces to provide food outlets in a central location on the ground floor and a co-working and public community area adjacent to same. The food court will be open to the general public. It is noted that the restaurant previously permitted was also open to the general public.

7.2.3. The planner considers that the use of the space as 'food court' in lieu of restaurant is the same Class of Use, and that therefore the development is acceptable under the current policy. I would concur with this and consider that the change of use from restaurant to food court is acceptable at this location.

7.2.4. With regard to the permission sought for the removal/ deletion of Condition 2, the Design Statement submitted with the application sets out in detail the reasons this amendment is required. The primary reason relates to the financial viability of the project. It is stated that Condition 2 is a severe impediment to progress and that an important cohort of potential sub-tenants would be dissuaded from becoming occupants as a consequence of this condition. Without certainty over the longevity of the planning permission and without a more agreeable planning permission term, the applicants are of the opinion that the change of use of the Ferry Terminal to co-working is commercially unworkable.

7.2.5. Condition 2 of D18A/0078 is as follows:

This permission is for a period of **10 years from the date of the final grant of permission**. Four years from the final decision date, the Applicant shall submit a full review/ monitoring report, together with floor plans, in respect of the permitted use detailing the overall use and corresponding floor area, demonstrating that the development remains consistent with the particulars of this permission. At the end of the 10 year period, the use of the building shall cease unless, permission for its continuance and/or change of use (as required) has been granted by the Planning Authority or An Bord Pleanála on appeal.

7.2.6. Condition 2 of the permission granted by the Planning Authority in the current application limits the period to **15 year which starts from the date of first occupancy**. I note that the response to the appeal is satisfied with this 15 year

period and states that ‘the additional 5 years in the revised planning permission affords us the time necessary to justify the capital investment necessary to prepare this space for occupation by the co-working business community.’ Should the Board be minded to grant permission for the proposed development, I consider that a period of 15 years is reasonable. However, I would recommend that the standard wording normally used by the Board of ... ‘15 years from the start of this order’ should be used in order to have certainty for all parties on the timeframe rather than 15 years from the date of first occupation which could potentially allow for a much longer timeframe.

7.2.7. The reason the Planning Authority granted a temporary period only in the original permission related to the objectives contained within the Dun Laoghaire Rathdown County Development Plan and the Dun Laoghaire Urban Framework Plan. It was stated in the planner’s report that ideally, a complete redevelopment of the area that included a number of uses would be preferred, however given that there was no proposal to redevelop the area at present, its reuse for a temporary period of time would be reasonable as this would aid the re-vitalisation of the area pending a more comprehensive redevelopment.

7.2.8. The main concern raised in the third party appeal and observation is that since the original grant of permission, the Irish Government has announced that the National Water Sports Campus will be developed in Dun Laoghaire Harbour and funding has been allocated to the Council for a study into how to develop this area. It considered that the reuse of this building in the absence of the study would hamper this planned development.

7.2.9. The development of a National Water Sports Campus is a project of national importance and in keeping with Objective 157 of the Dun Laoghaire Development Plan which is as follows: ‘To support and encourage the development of a National Watersport Centre to facilitate training and participation in a varied range of water sports and activities to provide a focus for national and international watersport events. Site appraisal and analysis of the Harbour environs to identify the optimum location(s) for such a centre to be expediated as an integral part of the forthcoming Dun Laoghaire and Environs Local Area Plan (LAP).’ The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media allocated funding in January 2020 and described the project as ‘A National Water Sports Campus in Dun Laoghaire

including a centre for community water sports activities and public slipway and a High Performance Coaching Centre. A mixed use space for hosting international sailing championships, swimming, triathlon, rowing and canoeing. Accommodation facilities for NGB's and Campus tenants.'

- 7.2.10. At present, there is no evidence available to me that the reuse of this building would have any impact on a future National Water Sports Campus at this location. The grant of the current application (PA D19A/0947) was after the government announcement of a National Water Sports Campus. I note that funding for this project was announced on the 13<sup>th</sup> of January 2020 and the decision by the Planning Authority was made in February 2020. The Planning Authority had an opportunity to make a response to the appeal but have not done so. I note also that there is no objection to the project from any of the organisations associated with this project. In addition, the appeal response by the applicant states that they welcome the proposed National Water Sports Campus and news of the feasibility study and its funding. The appeal states that the applicants have met with the team working on the National Water Sports Campus and they have confirmed that the planning permission granted under D19A/0947 does not in any way interfere with the proposed plans for the National Water Sports Campus. It notes that the proposed focus for this project is the Carlisle Pier and not St. Michaels Pier where the existing ferry building is located. This is located 160 metres away on a completely separate pier. It also notes that the National Water Sports Campus submission to government included a drawing that clearly indicates a major building located on the Carlisle Pier.
- 7.2.11. Overall, I am satisfied that the amendments made from restaurant to food court are in keeping with zoning of the site as 'W' 'To provide for waterfront development and harbour related uses and the reuse of the building for a temporary period of 15 years is acceptable. The principle of the use had already been determined under the existing permission and I do not consider that the proposals for a National Water Sports campus alter this in any way.

### 7.3. Other Matters

- 7.3.1. Concerns have been raised in the observation and third party appeal that the lands at this location have been used in the past for 'extreme motor car races', major rock

concerts and other extreme events. These events have a major negative impact on residents of Dun Laoghaire in terms of noise and traffic.

- 7.3.2. The appeal response states that the space allocated to the applicants has never been used for rock concerts, car races etc. It is understood that such events have been organised on lands adjacent to the Ferry Terminal which are owned by the County Council.
- 7.3.3. I am satisfied that this addresses the concerns raised. The Board does not have any role in enforcement and if such events were to take place in the future, this would be a matter for the Planning Authority.

#### **7.4. Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development which provides for the reuse of an existing building in a serviced built-up area, 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.

### **8.0 Recommendation**

- 8.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

### **9.0 Reasons and Considerations**

Having regard to the Dun Laoghaire-Rathdown County Development Plan 2016-2022, the planning history of the site and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area, would not give rise to traffic hazard and would, otherwise, be in accordance with the provisions of the development plan. 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 terms and conditions of the parent permission granted for the development under planning register reference number D18A/0078 shall be complied with, unless they are modified by the terms and conditions of this permission.

**Reason:** In the interest of clarity.

3. The period during which the development hereby permitted may be carried out shall be 15 years from the date of this order.

**Reason:** Having regard to the nature of the proposed development, the Board considered it reasonable and appropriate to specify a period of the permission in excess of five years.

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Emer Doyle  
Planning Inspector

26<sup>th</sup> November 2020