



An
Bord
Pleanála

Inspector's Report

ABP-307704-20

Development	Change of use of vacant retail unit at ground floor level to a whiskey shop/off licence.
Location	17/18, Temple Lane South, Dublin 2
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2483/20
Applicant(s)	Temple Inns Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Temple Inns Limited
Observer(s)	Frank McDonald, Declan O'Brien & Conal O'Sullivan
Date of Site Inspection	16 th November 2020
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.0149 hectares, is located in Temple Bar on eastern side of Temple Lane South. The site comprises of a vacant retail unit at no. 17/18 Temple Lane South. The shop unit is at the ground floor of a four-storey structure with hostel accommodation on the upper three floors (Barnacles Hostel, 19 Temple Lane South). To the north of the site is The Temple Bar, which occupies the ground floor of no.s 14 and 16 Temple Bar South (four-storey structure with residential use of the upper floors and further north at no. 47-48 Temple Bar).

2.0 Proposed Development

- 2.1. Permission is sought for the change of use of the existing vacant retail unit (127.7sqm) at ground floor level to a whiskey shop/off licence; the provision of a new shopfront and associated signage; and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on two reasons...

1. Having regard to the number of off-licence and part off-licence uses in the general area including the whiskey shop at no. 45 Temple Bars and the requirements of Section 16.28 of the Dublin City development Plan 2016-2022 and policy RD5, the planning authority considers that no compelling case has been made by the applicant for the proposed additional off licence/whiskey shop. Accordingly, the proposed off licence/whiskey, would be contrary to the provisions of the Policy RD5 of the Dublin City development Plan 2016-2022 as it relates to the prohibition of further expansion of off-licences or part off-licences, would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the proposed off-licence/whiskey shop, which provides for tasting and group gatherings in a dedicated tasting room, it is considered that the proposed development would add to an over-concentration of licensed premises in the immediate area. The proposed development is therefore contrary to Policy CHC028 Dublin City Development Plan 2016-2022 as it policy to discourage and over-concentration of large public houses in any particular area, would seriously injure the amenities of the area ad would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed decorated timber shopfront would be injurious to the architecture and character of the existing building and to the visual amenities of the wider streetscape. The proposed shopfront would be contrary to the implementation of good shopfront design as provided for within the Shopfront Design Guide 2001 and the Dublin City Development Plan 2016-2022, would set an unwanted precedent for similar type development and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report (01/07/20): Concerns were expressed regarding the over concentration of off-licence and licensed premises and the proposal was considered to be contrary Development Plan policy. The proposal was also considered to be deficient in terms of the quality of shopfront proposed. Refusal was recommended based on the reasons outlined above.

3.2.2. Other Technical Reports

Drainage Division (24/02/20): No objection.

3.3. **Prescribed Bodies**

3.3.1 TII (23/04/20): development would be subject to Section 49 Supplementary Contribution Scheme (Luas Docklands extension).

3.4. **Third Party Observations**

3.4.1 Three submissions were received. The issues raised can be summarised as follows...

- Excessive footprint of existing licenced premises and existing provision of an off-licence within the applicants landholding at this location, lack of balance between residential, retail and licenced premises, adverse impact on the area through over-concentration of licenced premises, potential for such space to be incorporated into existing licenced premises.

4.0 **Planning History**

4.1 1613/07: Permission granted for single-storey extension to rear yard and shop front alterations.

4.2 2343/95: permission granted for a hostel together with 3 retail units.

Adjoining sites

4.3 4715/18: Permission granted for accessible toilets at the Temple Bar (47-48 temple Bar).

5.0 Policy Context

5.1. Development Plan

The relevant Development plan is the Dublin City development Plan 2016-2022. The appeal site is zoned Z5 with a 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”.

CH028: To discourage an over-concentration of large public houses in any particular area to ensure a balance mix of cultural uses, including venue for live music, theatre, film and dance, whilst protecting the residential amenities of city centre residents.

RD5: 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-license/part off licence should include a map of all such establishments located within 1km radius of the proposed development. In relation to stand-alone off-licences, an audit of the existing off-licence floor space provision within 1km and an analysis of the need for the proposed in the locality shall be provided.

11.2.5.3 Cultural Hubs and Quarters

Dublin City Council has promoted and encouraged the clustering of cultural activities over the lifetime of previous development plans, building on the success of clusters such as Temple Bar and the south city centre historic core. Cultural clusters are emerging around Parnell Square, Heuston gateway, North and South Docklands, the Liberties and Smithfield and the City Council will continue to support their development. The Liberties/Temple Bar is regarded as the key cultural/creative quarter of the city.

16.24.2 Shopfronts

Shopfronts are one of the most important elements in defining the character, quality, and image of the streets in both the city centre and our urban villages/radial streets. Dublin City Council seeks to protect and retain traditional and original shopfronts and to encourage new and contemporary shopfronts that are well designed. This will protect local character and foster vibrant and successful retail centres. There should be a regular change and rhythm to shopfronts to create visual interest, preferably a new shopfront, or a change to the design of a long shopfront, every 5-8 m.

Section 16.28 Off-licence and Part Off-Licence

In considering planning applications for off-licence premises or extensions to existing off-licence premises, the following criteria shall be applied: The number and frequency of such facilities within a 1 km radius of the proposed development The context and character of the street where the aim is to maintain and improve the vitality of the shopping experience by encouraging a range of convenience and/or comparison retail shops The range of uses at ground floor in an area where the aim is to strengthen the retail character and ensure the proposal will not result in a proliferation of similar retail service outlets such as, internet cafés, call centres, bookmakers, takeaways, amusement arcades and car rentals resulting in a predominance of similar non-shop frontages The size of the proposed off-licence in the context of the size of premises in the area.

5.2. **Natural Heritage Designations**

None in the vicinity.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1 A first party appeal has been lodged by Thorton O'Connor Town Planning on behalf of Temple Inns Limited. The ground of appeal are as follows...

- The applicant/appellants consider that the shopfront design proposed is appropriate but have provided three alternative options for consideration.
- It is noted that the proposed development should not be classified along with a standard off-licence, is specifically a whiskey shop and is a unique high-end retail proposal.
- The proposal will entail use of an existing vacant unit and that the existing size and location of the unit including existing economic circumstances mean filling the unit with an alternative retail use would be difficult.
- The applicant/appellants outline the intended concept and emphasis that the proposal is of exceptional quality and unique in character.
- The applicant/appellants state that the intention is to provide a retail unit with the other elements to improve customer experience. The applicant/appellants are willing to omit the tasting room if deemed necessary.
- It is stated that the existing whiskey shop at no. 45 (under the applicants ownership) is too small to provide a comfortable customer experience and there is a requirement to provide a larger retail unit. If the Board is concerned about the provision of another such retail outlet in close proximity the applicant is willing to accept a condition reverting no. 45 back to a standard retail unit and has included such within the blue line of the application.
- The applicant/appellants identify all off-licence premises within 1km of the site and note that only one existing operation is comparable and that the total number of existing off-licences within 1km is limited.
- The second reason for refusal does not apply as the proposal is not a large scale licenced premises and is a retail use. It is noted that the applicant/appellants are willing to omit the tasting room.

6.2. Planning Authority Response

6.2.1 Response by Dublin City Council.

- The PA states that the planning report deals with all relevant issues and the decision to refuse is justified.

- It is stated that if permission is granted, the shopfront should be of good quality.

6.3. Observations

6.3.1 Observation by Frank McDonald, Declan O'Brien & Conal O'Sullivan.

- In relation to the over-concentration of licensed premises in Temple Bar the observers refer to the decision issues under ABP-301816-18. There is an over-concentration of licenced premises and off-licences in the area.
- The list submitted by the applicant/appellants of off-licences in 1km of the site is misleading and does not include all off-licences and part off-licences with a significant number in the area (listed). Policy 16.2 of the City development Plan 8 is referred to.
- The observers question the applicants case and need for the proposal and note that there are other operators that provide a similar service and customer experience to what is proposed.
- The observers note the history of the Temple Bar pub and its incremental expansion at this location. The observers state that they are concerned about the provision of another licenced premises in this area and its possibility that it would serve to expand the Temple Bar premises. It is noted that the laneway between the retail unit and the pub is entirely under the applicants control and could facilitate incorporation of the retail units into the existing public house.
- The observers refer to concern regarding the mix of uses in the area and the possible over proliferation of licenced premises/off licences as opposed to other uses. It is stated that the applicant could facilitate the proposal of the proposal within the confines of the existing public house.

6.4. Further Responses

6.4.1 No response.

7.0 Assessment

7.1. Having inspected and examined the associated documents the relevant issues are as follows...

Compliance with development plan Policy, off-licences and licenced premises.

Shopfront design

7.2. Compliance with development plan Policy, off-licences and licenced premises:

7.2.1 The proposal is for a change of use from a retail unit to a whiskey shop/off licence. The proposal features a tasting room. The proposal was refused on the basis that it would not be in compliance with Development Plan policy RD5 relating to over-proliferation of off licences/part off-licences and Policy CHC028 relating to over-concentration of large public houses.

7.2.2 Policy RD5 of the City Development Plan is “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-license/part off licence should include a map of all such establishments located within 1km radius of the proposed development. In relation to stand-alone off-licences, and audit of the existing off-licence floor space provision within 1km and an analysis of the need for the proposed in the locality shall be provided”. Section 16.28 relating to Off-Licence and Part Off-Licence outlines the criteria that should be applied in considering applications for such (outlined above).

7.2.3 The appellants has a provided a list of 8 off-licences within 1km of the site. The policy also indicates that part off-licences should be identified and be a consideration with the observers noting that there are 22 of such premise within the 1km radius. I would note that the applicant/appellants’ list is deficient as part off-licences clearly need to be identified. Based on the actual number of off-licences and part off-licences in the area there is clear proliferation of such uses and the proposal for an additional off-licence would lead to an excessive concentration of such in the area.

Section 16.28 identified one of the criteria being that “the range of uses at ground floor level in an area where the aim is to strengthen the retail character and ensure the proposal will not result in a proliferation of similar retail services outlets such as, internet cafes, call centres, bookmakers, Takeaways, amusement arcades and car retail resulting in a predominance of similar non-shop premises”. I would consider that the proposal would be contrary both Policy RD5 and Section 16.28 of the City development plan and would contribute to an over-proliferation of off-licence premises in the area.

7.2.4 The appellants’ argument is that the proposal is not a standard off-licence and a more sophisticated establishment that would contribute to the area positively and result in the active use of vacant shop unit. I am satisfied that the proposal is not for a run of the mill off-licence, however it is an off-licence nonetheless. There are clear issues in this area regarding imbalance of uses in favour of licenced premises and there is clear policy regarding over proliferation of off-licences. I do not consider that the applicants/appellants have made a compelling case and that the proposal would be contrary development plan policy.

7.2.5 Permission was also refused on the basis of being contrary Policy CHC028 with it considered that the proposed off-licence/whiskey shop, which provides for tasting and group gatherings in a dedicated tasting room, would add to an over-concentration of licensed premises in the immediate area and be contrary to development plan policy. The proposal is part of the holdings of Temple Inns who are owners/operators of the Temple Bar Public House located at 47-48 Temple Bar and at 14-16 Temple Bar South as well as a whiskey shop at no. 45 Temple Bar. I would note that the proposal is an extension of their operations at this location. I would however stop short in considering it be an extension of the existing licenced premises. The unit is physically separated with no internal link proposed and is a separate entity. The observers speculate that it could be used to expand the public house and that such is physically feasible. I would note that if the proposal was permitted in its current form, a separate permission would be required to extend the existing public house into the unit subject to this appeal. I do not consider that the

proposal is contrary to Policy CH028, however I do consider it would be contrary development plan policy relating to off-licences as outlined above.

7.2.6 The applicants/appellants have suggested omitting the tasting room and also suggested reverting the unit at no. 45 Temple Bar to a standard retail unit. Omission of the tasting room does not address the over-proliferation of off-licences. In the case of no. 45 I would note that this is not what has been applied for and I do not consider that it is something that could be dealt with by way of condition.

7.3 Shopfront Design:

7.3.1 Permission was also refused on the basis that the proposed decorated timber shopfront would be injurious to the architecture and character of the existing building and to the visual amenities of the wider streetscape. The proposed shopfront would be contrary to the implementation of good shopfront design as provided for within the Shopfront Design Guide 2001 and the Dublin City Development Plan 2016-2022, would set an unwanted precedent for similar type development and would be contrary to the proper planning and sustainable development of the area. The appellants stated in their submission that the shopfront proposed is of sufficient quality, however they have provided three alternative shopfront designs for consideration.

7.3.2 The shopfront proposed is a traditional style of shop front and does jar with the more contemporary style of the existing structure. The proportions of the shopfront are reasonable with the sign board not being excessive in depth. The shopfront guidelines encourage more contemporary design and discourage pastiche style shopfronts. The applicant/appellants have provide for a number of options. Option B looks similar to the original proposal, whereas options C and D provide for a less continuous shopfront broken up into three elements. I would consider that Option C and D get away from the pastiche style of the proposal. I would consider that this is an issue that can be resolved with a more contemporary design and that the

alternative options are an improvement (C and D). I would not recommend refusal on this issue and note that that it is an issue that could be resolved by way of condition.

8.0 Appropriate Assessment:

8.1 Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would 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 refusal based on the following reasons.

8.0 Reasons and Considerations

1. Having regard to the number of off-licence and part off-licence uses in the general area including the whiskey shop at no. 45 Temple Bar and the requirements of Section 16.28 of the Dublin City development Plan 2016-2022 and policy RD5, it is considered that no compelling case has been made by the applicant for the proposed additional off licence/whiskey shop. Accordingly, the proposed off licence/whiskey, would be contrary to the provisions of the Policy RD5 of the Dublin and Section 16.28 of City Development Plan 2016-2022 as it relates to the prohibition of further expansion of off-licences or part off-licences, would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

20th November 2020