



An
Bord
Pleanála

Inspector's Report ABP 313470-22

Development	Retain pedestrian entrance to gaming arcade and elevational alterations and signage at No. 28 McCurtain Street and retain elevational changes and signage at No. 5 St. Patrick's Quay. Protected Structure.
Location	No. 5 St. Patrick's Quay and No.28 MacCurtain Street, Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	22/40860
Applicant	V.S.C. Ltd.
Type of Application	Retention Permission
Planning Authority Decision	Refuse
Type of Appeal	1 st Party v. Refusal
Appellant	V.S.C. Ltd.
Observer(s)	None
Date of Site Inspection	01/11/22
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

- 1.1. The site subject of the appeal originally comprised of two separate buildings which have been internally connected. It has frontage onto both St. Patrick's Quay to the south (No.5) and MacCurtain Street to the north (No.28) and is in use as a casino.
- 1.2. No. 5 St. Patrick's Quay is a brick fronted, three bay, three storey building with signage at both ground and first floor levels with film on the windows with images affixed related to the use. Access is via an obscure glazed sliding door. A second door has been installed to the side replacing a window ope. The building was a former warehouse and is a protected structure. No. 28 MacCurtain Street is a three storey, four bay building which has been subdivided at ground floor level. The section which forms part of the appeal site provides an access to the casino, again via an obscure glazed sliding door. The signage matches that affixed to the St. Patrick's Quay elevation with advertising displays to either side. The adjoining unit is currently in use as a tattoo shop with a door facilitating access to the upper floors of the building.
- 1.3. The vicinity of the site is characterised by a mix of terraced buildings of varying heights and ages in a mix of commercial and residential uses.

2.0 Proposed Development

- 2.1. Retention permission for:

No. 28 Mac Curtain Street:

- Entrance into the gaming arcade.
- Elevational alterations and signage
- Replacement door to upper floors

No. 5 St. Patrick's Quay

- Signage at ground and 1st floor levels
- Door installed in place of window ope.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the above described development for two reasons which can be summarised as follows:

1. Having regard to the city centre retail area zoning, the Cork City Retail Strategy, the designation of MacCurtain Street as a key secondary retail frontage and to the nature of uses in the vicinity, it is considered that the replacement of a retail unit with an access to an adjoining leisure use results in the loss of an active ground floor use frontage. The proposal would be inconsistent with the retail strategy which reinforces the primacy and retail function of the city centre retail area and the maintenance of the character and vibrancy of the designated shopping streets. The proposal contravenes materially zoning objective Z01 and objective 4.3 of the development plan.
2. The development to be retained is unacceptable in terms of conservation best practice. It would be contrary to objectives 9.23 and 9.28 of the city development plan and the Architectural Heritage Guidelines for Planning Authorities.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **A/Senior Executive Planner's** report notes:

- The retention of the replacement of a stand alone commercial unit with a pedestrian entrance onto MacCurtain Street to serve a leisure use would be inconsistent with the retail strategy and the city development plan and would militate against the enhancement and retention of the shopping street's vibrancy.
- The replacement exit door and associated additional signage onto MacCurtain Street is considered minor in nature. The new façade on the other side which replaces a façade that was dominated by windows providing intervisibility deadens the ground floor elevation.

- The Conservation Officer's report summarised below noted and referenced.

A refusal of permission for 2 reasons recommended.

The recommendation is endorsed by the Senior Planner.

3.2.2. Other Technical Reports

Conservation Officer notes:

No.5 St. Patrick's Quay:

- The signage on the elevation dominates and obscures large areas of the front elevation which is of significance. It interrupts the visual appreciation of the protected structure and has a negative impact on its special interest.
- It is recognised that a fascia above the ground floor existed previously but did not have the benefit of planning permission.
- The principle of lettering at 1st floor level may be considered acceptable but it should be significantly scaled back.
- How the signage was affixed to the historic fabric is unclear.
- The film added to ground and 1st floor windows to provide for additional signage requires permission. The principle of film is not necessarily opposed but should be more sympathetic to the character of the protected structure.
- The strip lighting surrounding the 1st and 2nd floors has not been included in the drawings. It should be removed.
- The sliding central doors which do not appear to have the benefit of permission are inappropriate and should be replaced.
- The removal of the external render has not been noted in the drawings.

No. 28 Mac Curtain Street

- The replacement shopfront omits traditional detailing.
- The sliding doors are unsympathetic.
- Moving advertising screens positioned within and close to the shopfront window create visual clutter.

- The use of illuminated signage is not considered appropriate to the character of the formal Victorian streetscape.

Conclusion

The works are considered unacceptable in terms of conservation best practice. A refusal of permission recommended.

Contributions report. No contributions applicable.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised relate to loss of active street frontage, loss of retail/commercial use and proliferation of casino/amusement arcade uses in the area.

4.0 Planning History

ABP 301911-18 (18/37846) - permission refused for change of use of premises from retail to amusement arcade at Nos. 2 & No. 3, McCurtain Street.

ABP-300921-18 (17/37517) – Permission granted for extension of gaming and leisure use at 16 St. Patricks Quay and retention of signage.

5.0 Policy Context

5.1. Development Plan

Since the planning authority's decision on the application the Cork City Development Plan 2022 came into effect.

The site is within an area zoned ZO 5 City Centre the objective for which is to consolidate and facilitate the development of the central area and to promote its role

as a dynamic mixed used centre for community, economic, civic, cultural and residential growth.

Primary uses in this zone include but are not limited to retail, residential uses, community uses, offices, hotels, cultural and leisure facilities, education and healthcare institutions and facilities, and uses that contribute to the vibrancy and diversity of the City Centre.

Objective 7.27 - Strategic Retail Objectives

- b. To maintain and strengthen the role of Cork City Centre as the primary retail centre in the Cork Metropolitan Area.
- c. To ensure the resilience of Cork City Centre to changing trends in retail demand. Appropriate opportunities to further diversify the City Centre as a place to live, work and socialise will be encouraged.

Objective 7.28 - City Centre

To protect and enhance the role of Cork City Centre as the primary retail centre in the Cork Metropolitan Area and the region by facilitating the continued regeneration and modernisation of existing building stock and supporting appropriate new development, coupled with a range of complimentary residential, leisure, recreational and cultural uses and investment in the public realm.

No.5 St. Patrick's Quay is a protected structure.

Both properties are within the MacCurtain Street ACA.

Other development plan objectives considered to be of relevance are:

Objective 8.19 - Record of Protected Structures

Objective 8.23 - Development in Architectural Conservation Areas

In terms of Development Management – the relevant sections of chapter 11 are

Section 11.191 - Amusement Centres/Arcades

Section 11.192 Casinos / Private Member's Clubs

Section 11.194 - Advertising on Buildings

In general advertising on buildings should conform to the following:

1. Be sympathetic in design and colouring both to the building on which they will be displayed and their surroundings;
2. The City Council will aim to reduce visual clutter and control the number of signs and advertising that are displayed;
3. Shop front advertising should be designed as an integral part of the shop front;
4. Not obscure architectural features such as cornices or window openings;
5. Illuminated signs or other advertising structures will not be allowed above the eaves or parapet level on buildings in any part of the city.

Section 11.195 - Fascia Signage & Illuminative & Projecting Signs

As a general principle fascia signs and projecting signs should be simple in design, not excessive in illumination or size. The following basic guidelines will be applied in assessing planning applications:

1. Plastic derived fascias with product advertising and internally illuminated fascias will not be permitted;
2. Projecting signs should be of 2.4m clearance above street level;
3. Internally illuminated signs shall be restricted;
4. The design of illuminated signage should be sympathetic to the building on which it is to be displayed;
5. Overall illumination of fascia signage or shop fronts of distinctive architectural features should be discreet and limited to spot-lighting, up lighting or disguised minimalist strip lighting;
6. The daytime appearance when unlit will also be considered;
7. The use of banners, flags, billboards and other forms of advertising will be strictly controlled in the City Centre;
8. Product advertising on canopies will not be permitted.

Section 11.201 - Protected Structures

Development of Protected Structures and within the curtilage of Protected Structures is addressed in Chapter 8 Heritage Arts & Culture. The overall guiding principle is positive enhancement of the special character of a Protected Structure. The provisions of the 'Architectural Heritage Protection Guidelines' (DOEHLG, 2004) will be taken into consideration when assessing planning applications for works to Protected Structures or within the curtilage of Protected Structures.

Section 11.202 – Architectural Conservation Areas

Development in Architectural Conservation Areas is addressed in Chapter 8 Heritage Arts & Culture. The overall guiding principle is positive enhancement of the unique qualities that make a place special because of its particular character. The requirements for documentation to accompany planning applications for development within Architectural Conservation Areas and for their subsequent assessment are set out in the 'Architectural Heritage Protection Guidelines' (DOEHLG, 2004).

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by Tom Phillips & Associates on behalf of the 1st Party against the planning authority's notification of decision to refuse permission can be summarised as follows:

6.1.1. Planning History

- The amusement arcade/casino use is long established at the MacCurtain Street premises. Permission was granted under ref. 19749/95. The most recent use of the premises as a barber shop does not appear to have the benefit of planning permission. High Court Ruling (2004) IEHC 74- Molloy & Ors v. Minister for Justice Equality and Law Reform & Ors. Cited. It is submitted that the original permitted use would not have been extinguished.

The applicant was therefore not obliged to apply for retention of change of use.

- There is no material structural alteration to the property which would render the 1995 permission incapable of being implemented.

6.1.2. City Centre Retail Area Policies

- There are ambiguities in the development plan policies with regard of acceptable uses on the MacCurtain Street secondary retail frontage.
- The new development plan recognises the increasingly important role that complementary uses such as leisure play in maintaining the vibrancy of the city centre. This is particularly important in supporting and complementing the night time economy.
- The linkage between 5 St. Patrick's Quay and 28 MacCurtain Street was established via a permission granted under ref. 89/15488.
- The proposal is not comparable to other proposals for amusement arcades. There are few entertainment uses on this section of MacCurtain Street.
- It adds to the diversity of the street and, as it operates outside the normal shopping hours, would enhance the level of activity along the street.
- The retention of the modest property of c.35 sq.m. as an extension to a long established leisure based establishment would not present a threat to the vibrancy of the street.
- MacCurtain Street has struggled to maintain its retail function in recent years.

6.1.3. Elevational Changes and Signage

- The concerns could have been addressed by way of further information.
- The alterations to the elevations can easily be amended in accordance with the recommendations of a suitable qualified architect and in agreement with the City Council. Suitable conditions could be attached to enable this to occur.
- The signage on the St. Patrick's Quay frontage is not inconsistent with what existed on the façade for many years.

- Following the amalgamation of the 2 properties the internal space of No. 28 MacCurtain Street reads as a lobby. It is the intention of the applicant that the space be further developed to activate it in line with the existing 1995 permission. A condition requiring the reinstatement of the front façade recommended.

6.2. Planning Authority Response

None.

7.0 Assessment

- 7.1. Since the planning authority's decision and receipt of the 1st party appeal the new Cork City Development Plan 2022 came into effect. There are substantive changes in terms of policies pertaining to the site including those relating to retail. The plan notes the changing retailing environment and, in ensuring the resilience of the city centre, seeks to encourage appropriate opportunities for diversification as a place to live, work and socialise. A core retail area anchored by St. Patrick's Street and which includes the western section of St. Patrick's Quay and Mac Curtain Street (including the appeal site) is delineated. Of note the secondary street frontage designation which previously applied to MacCurtain Street is omitted. Such secondary street frontage is now restricted to areas in the south of St. Patrick's Street. Also the site is now within an Architectural Conservation Area.
- 7.2. The site is within an area zoned ZO 5 City Centre the objective for which is to consolidate and facilitate the development of the central area and to promote its role as a dynamic mixed used centre for community, economic, civic, cultural and residential growth. Primary uses in this zone include but are not limited to retail, residential uses, community uses, offices, hotels, cultural and leisure facilities, education and healthcare institutions and facilities, and uses that contribute to the vibrancy and diversity of the City Centre.
- 7.3. The agent for the applicant contends that No.28 MacCurtain Street has the benefit of permission for use as an amusement arcade dating back to 1995. The agent for the applicant contends that as the unit's intervening use as a barber shop which commenced operation in 1998 did not have planning permission the permitted use,

namely as an amusement arcade, has not lapsed or been extinguished notwithstanding the time that has elapsed. The applicant for the 1st party also states that permission for the internal connection of the two properties was secured.

- 7.4. From the details accompanying the appeal No.28 Mac Curtain Street did secure permission as a gaming arcade. However it is unclear whether the premises was used as a casino/amusement arcade following the said permission. It is also unclear as to when the ground floor of No. 28 was subdivided to provide for two separate retail/commercial units and whether the use as gaming arcade pertained to the entire ground floor or just to the portion now subject of this appeal. On this basis I do not consider that there is sufficient detail before the Board to make an adjudication on this matter. Notwithstanding, I submit that the application before the Board is for the retention of the entrance and signage at No. 28 and not for the use of the premises as a casino per se.
- 7.5. As noted above and extrapolated from the mapped objectives (Map Nos 1 and 2) MacCurtain Street is no longer classified as secondary retail frontage although the zoning objective for the area, as stated above, is to provide for a dynamic mixed use city centre.
- 7.6. In my opinion the substantive issue in this appeal is the presentation of the unit to MacCurtain Street which is now within an Architectural Conservation Area. The shopfront is essentially an entrance to the casino with central sliding doors fitted with obscure glazing which, in my opinion, present as dead frontage onto the street and is unsympathetic to and detracts from the character of the area. The moving advertising screens to either side of the door and the illuminated signage above, which are also unsympathetic, result in visual clutter. There is no objection to the retention of the replacement door to facilitate access to the upper floors of the building as delineated on the plans.
- 7.7. In terms of the elevational alterations to St. Patrick's Quay and signage to be retained I do not accept the construct that as the signage is not inconsistent with what previously existed it is acceptable. In addition to being within the MacCurtain Street ACA the building is also a protected structure. The signage at both ground and 1st floor levels dominate and are visually prominent when viewed from the south and south-west when travelling from St. Patrick's Street. Whilst I note that signage

to buildings in the immediate vicinity are unsympathetic, this is not sufficient grounds for retention in the instant case. It is unclear from the details on the plans but I would suggest that the signage is internally illuminated. In addition, no details are given as to how the signage has been affixed to the historic fabric. The door to be retained as delineated on the plans accompanying the application is acceptable. I note that the said plans do not highlight the central sliding door and the further signage/symbols affixed to the ground and 1st floor windows as being subject of the retention application. Whilst all are inappropriate interventions to such a protected structure they do not form part of the application.

7.8. In conclusion, I consider that the proposed elevational treatments and signage to both MacCurtain Street and St. Patrick's Quay do not comply with the provisions of Section 11.194 and 11.195 of the current city development plan 2022 as relate to advertising in that it is not sympathetic in design both to the buildings on which they are displayed and their surroundings, add to visual clutter, are not simple in design and are excessive in size.

7.9. I do not consider that a condition requiring revised elevational treatments and signage alterations is an appropriate mechanism to address the substantive concerns arising. I suggest that these issues need to be resolved by way of a new application.

Appropriate Assessment

7.10. Having regard to the location of the site and the nature and scale of the proposed development 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 a European site.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.

9.0 Reasons and Considerations

It is considered that the pedestrian entrance design onto MacCurtain Street and the nature and extent of signage to be retained on both the MacCurtain Street and St. Patrick's Quay elevations gives rise to visual clutter, is seriously injurious to the visual amenities and character of the streetscape, would detract materially from the Architectural Conservation Area and does not present as a positive enhancement of No. 5 St. Patrick's Quay which is a protected structure. The proposed development would be contrary to the provisions of the Cork City Development Plan 2015 in relation to advertising, development in Architectural Conservation Areas and to protected structures, all of which are considered to be reasonable. The development to be retained would, therefore, be contrary to the proper planning and sustainable development of the area.

Pauline Fitzpatrick
Senior Planning Inspector

December, 2022