



An  
Bord  
Pleanála

## Inspector's Report ABP315381-22

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<b>Development</b>	Retention of foldable canopy over ground floor window facing Lwr. Fitzwilliam St. and installation of two no. illuminated projecting signs at corner of building
<b>Location</b>	43-44 Baggott Street Lower and 11A Fitzwilliam Street Lower Dublin 2.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	4934/22.
<b>Applicant(s)</b>	Greenfield Ideas Limited.
<b>Type of Application</b>	Retention.
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Greenfield Ideas Limited.
<b>Observer(s)</b>	South Georgian Core Residents Association
<b>Date of Site Inspection</b>	1 <sup>st</sup> August 2023.
<b>Inspector</b>	Philip Green.

## 1.0 Site Location and Description

- 1.1. Premises (a protected structure) is located on the northeastern corner of Lower Baggott Street at its junction with and having a narrow frontage on to Fitzwilliam Street Upper. No 43 is a three bay four storey over basement former house with one bay side elevation on Fitzwilliam Street (No11A). 44 Baggott Street is a two bay four storey over basement former house. The premises have been interconnected now with shared shopfront at ground floor level and render applied to the elevations.
- 1.2. The premises have a commercial use (bar/restaurant) at ground floor and basement. I did not gain access to the upper floors of the building at my site inspection so I cannot confirm the uses made of those floors. There is information on file which suggests office use above ground floor level although stencilling on the fanlight to the door to 11A refers to 'Toms House'.
- 1.3. The premises has external seating and tables behind railings under a canopy on its Baggott Street frontage. There is a coffee dock with window opening serving drinks in the ground floor section fronting Fitzwilliam Street below the canopy and one of the signs subject of this retention application. Adjacent to this and separated is the front door to 11A appearing to give access to the upper floors.
- 1.4. The premises is located at the end of a small row of shops and cafes/restuarants running from Fitzwilliam Street along Baggott Street towards Miesian Plaza/James's Street East and the BOI building to the southeast. There is a similar row of shops, cafes and restaurants opposite on the southern side of Baggott Street. Whilst there are commercial uses at ground floor (predominantly appearing to be offices) in the terraces of buildings along Fitzwilliam Street the character and appearance of this particular small section of Baggott Street appears markedly different to Fitzwilliam Street and would reflect its Z4 zoning in the Development Plan given the number of retail and other café type uses apparent.

## 2.0 The Application

- Seeks retention for a foldable canopy and 2 no. projecting internally illuminated advertising signs.
- Canopy consists of an electronically controlled canvass style awning approx. 1.8m wide projecting some 1.2 m. from its black container box itself affixed to the building façade above the ground floor window opening. The canopy is supported by black metal bracing brackets and chains. Canopy has a dark brown colouring with white lettering advertising Dime Coffee Co.
- 1 internally illuminated circular projecting sign located on same façade as the awning to be retained. Dimensions on plans submitted indicate a dimension of 500x500x100 projecting some 600cm from wall. This sign also advertises the Dime Coffee Co with white lettering on both sides.
- Other sign to be retained located on Baggott Street corner elevation being a red tube lit chicken design above Moms Chicken lettering in box projecting from wall by approx. 1100cm. and max. height of some 700cm.
- Top of higher sign stated to be 355cm above ground level.
- Application included a Conservation Method Statement

## 3.0 Planning Authority Decision

The Planning Authority refused retention permission for a single reason. This cited that the site is on a busy thoroughfare, and that the development was not necessary to emphasise the site location, that the projecting signs and branded canopy seriously detract and injure the special architectural character and legibility of the protected structure and its setting close to a Z8 zoned area and its setting within the Georgian core. Retention of the development would thus be contrary to the Shopfront Design Guide 2001 and Dublin City Development Plan 2016-2022, would

set an unacceptable precedent and would be contrary to proper planning and sustainable development of the area.

### 3.1. **Planning Authority Reports**

The planning report includes reference to the following matters

- Site located within area zoned Z4 in City Development Plan, 43-44 being on the current Record of Protected Structures (ref 366), is listed on the NIAH as having Regional Importance and is located within a Conservation Area
- Notes planning history including a split decision Declaration and enforcement notice in regard to removal of railings.
- Refers to two third party observations from Philip O Callaghan and the South Georgian Core Residents Association with reference to piecemeal development, seeking retention permission for works that need permission, alleged unauthorised development including external speakers and external seating creating noise pollution and encroachment of premises on to footpath and site being zoned Z8 to encourage residential use where residential levels are low. This proposal should not be treated in isolation, other visual distractions should be removed and if to be granted the adverts should not be illuminated.
- Refers to Development Plan policies in regard to night clubs and licensed premises, noise pollution, signs of shopfronts and other business premises and those relating to protected structures and conservation areas
- Report refers to Shopfront Design Guide not permitting projecting signs unless in an out of way location which is not considered to be the case here. They are considered inappropriate in the Georgian core detracting from the protected structure adding to visual clutter, being visually obtrusive and harmful to the sensitive streetscape setting an undesirable precedent;
- Canopy is considered to breach Shopfront Design Guide 2001 p 28 as it incorporates advertising although it might be considered appropriate otherwise

- Report also refers to other alleged unauthorised development which along with current proposal for retention have an unacceptable impact on the front elevation, surrounding environment and neighbouring residents.
- Report concludes that the projecting signage and branded canopy create visual clutter and has a negative impact on the protected structure and streetscape setting an undesirable precedent.
- Report concludes that there is no requirement for an appropriate assessment;
- Report concludes that an EIA is not required.

**Other Technical Reports** TII recommend seeking S49 Supplementary levy to any permission granted under the S49 Supplementary Development Contribution Scheme LUAS Cross City (St Stephens Green to Broombridge Line) if not otherwise exempt

#### 4.0 **Planning History**

The following planning history has been brought to my attention

- **0307/22:** Section 5 application (whether specified works to a protected structure require planning permission) sought for a variety of works at 43-44 Baggott Street the majority of which with exception of replacement of outdoor seating were deemed by DCC to require planning permission. Works requiring permission included changed text on fascia sign, external wall mounted heaters, shopfront changes, replacement canopies, planters, new window opening, serving coffee through window and restoration of granite plinth wall and railing.
- **PL29S 209464 (DCC Reg Ref 4066/04).** Third party appeal against DCC decision to grant permission for cast iron railings extending from building to boundary within private landing (footpath area) and change of use of private landing to external screened seating area. Board granted permission subject

to conditions including conditions requiring removal of all visible advertising from canopy when retracted and alternative design for screens.

## 5.0 Policy and Context

- 5.1. **Ministerial Guidelines:** Section 12.3 and 12.4 of the **Architectural Heritage Protection Guidelines for Planning Authorities** state “Signage 12.3.1 New lettering and signage should be required to respect the character of the protected structure and its setting and, where relevant, the character of an ACA. .... 12.4 Awnings and Blinds 12.4.1 Proposals to install new awnings or blinds to the shopfront of a protected structure should be treated with caution. Some modern awnings require large blind boxes that can be difficult to integrate successfully with an existing shopfront without damaging its special character. Blind boxes should not be allowed to mask or cut through any detailing which contributes to the interest and quality of the façade or shopfront....12.4.2 Where the fitting of a new awning or blind is considered acceptable, the design and materials should be appropriate to the character and quality of the building and its setting and, where relevant, to the character of an ACA”
- 5.2. **Dublin City Development Plan 2022 – 2028** Whilst the Planners report and DCC Notification of Decision refers to the Dublin City Development Plan 2016-2022 the DCC website indicates that the Dublin City Development Plan 2022-2028 was adopted at a Special Council meeting on the 2nd of November 2022 and came into effect on the 14th of December 2022. This report will therefore have regard to Development Plan policy as set out in this most recently adopted document.
- 5.3. On the Zoning Map of the latest Development Plan the premises is identified (along with a row of property fronting Baggott Street) as zoned Z4 Urban Village, within a

Conservation Area and is also identified as a Protected Structure RPS No 366 'Commercial Premises'.

- 5.4. The immediately adjoining property and others fronting Fitzwilliam Street are zoned Z8 within the Georgian Conservation Area.
- 5.5. Policy CCUV12 Shopfront Design To require a high quality of design and finish for new and replacement shopfront signage and advertising. Dublin City Council will actively promote the principles of good shopfront design as set out in Dublin City Council's Shopfront Design Guidelines and Chapter 15. Other relevant sections of the Development Plan thus include section 15.17.5 (Shopfront and Façade Design), there is reference to the Retail Design Manual, 2012, Dublin City Council's Shopfront Design Guide, 2001 and Appendix 17 sets out the Advertising and Signage Strategy of the Development Plan.

The premises lies within a conservation area and section 11.5.3 of the Development Plan recognises these areas as areas that have conservation merit and importance and warrant protection through zoning and policy application. It states "Designated Conservation Areas include extensive groupings of buildings, streetscapes and associated open spaces and include (parts of) the medieval/walled city, the Georgian Core, the 19th and 20th century city, and the city quays, rivers and canals. The special interest/value of Conservation Areas lies in the historic and architectural interest and the design and scale of these areas. Therefore, all of these areas require special care in terms of development proposals. The City Council will encourage development which enhances the setting and character of Conservation Areas"

#### 5.6. **Natural Heritage Designations**

- None of relevance to this case

## 5.7. EIA Screening

5.8. Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

## 6.0 The Appeal

### 6.1. Grounds of Appeal (First Party)

- Planners report appears to consider canopy inoffensive but that branding on canopy is not permitted under Shopfront Design Guidelines;
- Inappropriate to consider this façade as a shopfront as it has no such features. Installation is merely an attractive canopy an attractive feature of many traditional streetscapes including at private doors and windows;
- Client willing to remove branding should Board require by condition. As branding on windbreaks on Baggott Street have already been removed overall level of branding has already been reduced;
- Disagree with assessment of impact of projecting signs. Other than location no assessment provided why this signage is not required. Applicants have many other premises in Dublin and have greater experience in what signage is or is not required to generate business.
- Two signs relate to and promote niche and new services provided ancillary to public house with high quality coffee shop and speciality chicken dining area;
- Cannot accept canopy and signage detracts from protected structure its setting, creates visual clutter or that street corner is essentially Georgian in character being dominated by ESB and former BOI headquarters on Baggott Street and Fitzwilliam Street
- Although DCC generally discourages projecting signs it does accept those of high quality design (see front of Design Guide for example);



- Some illuminated signs in place for some time have become much loved features (examples provided);
- Signs are very small at level of fascia and are removable. They support new business in a premises that was vacant for years. No original fabric is lost and encourages building to an active use which had prevailed for over a century
- Heritage Guidelines state that just because it is a protected structure does not mean that it is frozen in time and that they will need to adapt (7.2.2). will also keep it in active use with the best use being that which it was built and where change of use occurs that changes are kept to a minimum (7.3.1). development should be considered in this context and overall planning and conservation gain of a revitalised protected structure.
- Applicants have portfolio of other completed or managed projects relating to protected structures (examples provided)

## **6.2. Planning Authority Response**

- No response on file

## **6.3. Observations of South Georgian Core Residents Association**

- Number of applications made on site;
- Welcome restoration of trade however works subject of these applications should have only taken place after permission granted.
- Conservation method Statement lodged refers to a series of applications to be made however best practice would be that all these connected works were subject of one application prior to being carried out;
- Illuminated projected signs are out of keeping with Georgian location and rest of building finish. More in keeping signs are required;
- Branded canopy in breach of guidelines. Whilst current canopy logo is inoffensive it will be used for advertising in future if permitted;

- Refers to noise nuisance from unauthorised speakers at premises and policies relating to such in Development Plan. Request that speakers be removed;
- Refers to and request that unauthorised flagpoles be removed in any ruling on this appeal;
- Refers to artificial flowers at premises which they consider should be removed;
- Refers to the split decision on 0307/22 (see planning history above). Whilst not all interventions objected to planning permission should have been sought first.

## 7.0 **Assessment**

7.1. The Board will note that there are submissions on file in regard to alleged contraventions of planning regulations and unauthorised development at these premises. It is clear to me that the application as lodged was for the retention of the branded canopy and two illuminated projecting signs only. I consider that it is reasonable for the Board to deal with the application and appeal on this basis and to limit itself to consideration of these retention elements specified in the application. In my opinion other issue relating to these premises (including any new opening below the canopy for example from which coffee is served) are a matter for the planning authority to deal with separately including via enforcement or other proceedings should they consider it expedient.

7.2. In my opinion the main issues therefore to be considered in this case are as follows:

- Principle of advertising in this location on these premises
- Impact of the development proposed to be retained on the protected structure and character and appearance of the area.

7.3. A zoned Z4 Urban Village's stated function is to serve the needs of the surrounding catchment providing a range of retail, commercial, cultural, social and community functions that are easily accessible by foot, bicycle or public transport; in line with the concept of the 15-minute city and to promote the creation of a vibrant retail and commercial core with animated streetscapes. It promotes a diversity of uses to

maintain vitality throughout the day and evening. On this basis I consider that signage ancillary to an established use supporting the objectives of the Z4 zoning is, in principle, entirely reasonable. Notwithstanding this the sensitivity of this building being a designated protected structure, in a conservation area and in addition in immediate proximity to and visible from the designated Georgian Conservation Area are significant material considerations.

- 7.4. **Canopy:** I have noted the comments in the Planning Officer's report and those of the Observer who indicate that an unbranded canopy might have been deemed acceptable and that the branding is inoffensive but sets an inappropriate precedent. The report from the conservation officer on Declaration case 0307/22 also refers to this branding as being in conflict with the Shopfront Guidelines 2001 p.28 stating shop names or advertising are not permitted on canopies. I have reviewed these Guidelines, other policies and guidance in relation to such canopies and carefully considered the impact of the canopy on the protected structure, its fabric and appearance and its appearance in the wider street scene. I note that the Shopfront Guidelines on P28 require open ended blinds, blind box to be recessed and do not permit shop names or advertising on the canopies.
- 7.5. In regard to the blind box this is not recessed but I was able to view the box in situ with canopy retracted. The box does project from the wall fairly significantly and is not therefore entirely sympathetic in terms of additions to the visible and prominent plain façade of this protected structure. However given its colour and limited extent on the narrow facade facing Fitzwilliam Street I do not consider this element objectionable in appearance or entirely out of keeping with the overall structure. Nor is there sufficient information to demonstrate that it has, by virtue of its installation, interfered significantly or adversely with critical fabric or part of a historic shopfront. I conclude similarly in regard to the metal supports at either end and associated chain link supports.
- 7.6. I am not convinced also that the design, colour, size materials and appearance of the opened canopy which supports the continued use of the premises is sufficiently detrimental to the appearance of the overall structure at this point to warrant refusing permission for its retention. I would point out that Fitzwilliam Street has a different character to that of Baggott Street being relatively free from shop units, prominent advertising and more particularly canopies with canopies being limited to a number

of other properties within the Z4 zoned area of Baggott Street. Notwithstanding this I find that the canopy by virtue of its size, (open ended) design, materials and colour does not encroach substantially or detrimentally in to the character or appearance of the conservation area or the historic Georgian core and its associated streetscape.

7.7. A key question is therefore whether the branding on the canopy and its conflict with the councils Guidelines would in itself be sufficient in terms of precedent to warrant refusal. As noted above there are other canopies to other premises in the Z4 zoned baggot Street area however these do not appear to have substantial branding other than for one coffee shop/restaurant which had limited printing of the name of the premises on the edge of the canopy. Clearly the Councils Guidelines would resist such and the Board may consider this conflict to be sufficient in itself to set an unacceptable precedent and to seek the removal of this lettering by way of condition as suggested by the Applicant. Although noting the restrictive approach to such branding in the Guidelines I have considered this request for retention on its own merit. I do not consider the lettering on the canopy to be unduly insensitive or intrusive to either the protected structure or to the sensitive streetscape in which it is located. I therefore recommend that permission be granted for retention of the canopy inclusive of its lettering.

7.8. **Projecting signs:** The Shopfront Design Guidelines (P26) do not permit in general projecting signs to avoid clutter in the streetscape. In exceptional circumstances in out of the way locations it states that they should be designed more artistically using high quality materials and design. The use of symbols in association with a particular use is considered more acceptable for this type of signage.

7.9. The signs to be retained are in prominent locations at a busy junction formed by Fitzwilliam Street Lower and Baggot Street Lower. They are also located in a particularly sensitive location being affixed to a protected structure, within a conservation area and close to and visible from the Georgian Conservation Area. Whilst I have regard to other signage in the Z4 zoned area along Baggot Street and to the more limited signage along Fitzwilliam Street it is my opinion that both of the projecting signs sought for retention constitute and contribute to intrusive visual clutter which detracts from the character and appearance of the protected structure and to the sensitive streetscape in which the building is located. Both signs by virtue of their appearance, location, size, design, materials, projection and method of

(internal) illumination add incongruous and insensitive additions to the external façade of the protected structure and appear as unsightly additions contributing to visual clutter in the streetscape. It seems to me that the sensitive nature of the location and the Council's and other relevant guidelines all seek and require correctly in my opinion an entirely more sensitive approach and design in these circumstances.

- 7.10. In regard to suggested conditions for the element of the development recommended for permission I note that the Dublin City Council Development Contribution Scheme 2020-2023 (under Section 48, Planning & Development Act, 2000 as amended) appears to be based on floor area created. As the canopy in itself creates no additional sq.m. floor area I do not recommend a s. 48 development Contribution. In addition, the TII make reference to an adopted s. 49 Supplementary Development Contribution Scheme. (LUAS Cross City St Stephens Green to Broombridge). The same issues arise here with contributions based on floor area.
- 7.11. I have considered all the other matters raised but it seems to me that they are not so material to the consideration of the merits of this case to warrant reaching a different recommendation to that set out above and below.
- 7.12. **Appropriate Assessment Screening**
- 7.13. Having regard to the nature and scale of the proposed development, to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/ and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

## 8.0 **Recommendation**

In conclusion I recommend that the Board issue a split decision granting retention permission for the foldable canopy and associated lettering over ground floor window

on the Fitzwilliam Street frontage but refuse retention permission for both illuminated projecting signs at the corner of the building.

## 9.0 **Reasons and Considerations**

### 9.1. **First Schedule**

- 9.2. That planning permission be refused for the retention of the two no illuminated projecting signs at the corner of the building for the following reasons and considerations:

The two no. illuminated projecting signs proposed for retention are located in a prominent location at the junction of Baggot Street Lower and Fitzwilliam Street Lower. They are affixed to a protected structure located within a conservation area and close to and visible from the Georgian Conservation Area. It is considered by virtue of their appearance, location, size, design, materials, projection and method of illumination that they make incongruous and insensitive additions to the external façade of the protected structure detracting from its special architectural character and legibility and appear as unsightly additions contributing to visual clutter in this sensitive streetscape. The proposed development would, therefore be contrary to the Dublin City Development Plan 2022 – 2028, Policy CCUV12 Shopfront Design, section 15.17.5 (Shopfront and Façade Design) and Appendix 17 Advertising and Signage Strategy and the Shopfront Design Guide 2001 and would as such be contrary to the proper planning and sustainable development of the area.

### 9.3. **Second Schedule**

- 9.4. Having regard to the established commercial use of the ground floor of these premises, the premise's location within an Area zoned Z4 of the Dublin City Development Plan 2022 – 2028, to the sympathetic size, design, materials and colouring of the development to be retained along with the branding lettering contained there-on and its limited visual impact it is considered that the foldable canopy subject of this application for retention would not detract from the special architectural character and legibility of this protected structure or the character and appearance of the sensitive streetscape in which it is located. The proposed development would as such be in accordance with the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Philip Green  
Planning Inspector

2<sup>nd</sup> August 2023