



An
Bord
Pleanála

Inspector's Report

ABP-317182-23

Development

PROTECTED STRUCTURE:

Retention of works to the basement and other internal works at ground floor, for proposed internal alterations, repair and refurbishment of the public house in the basement and ground floor, for new door openings giving direct access from the public house to Ormond Place at ground level

Location

27 Ormond Quay Upper, Dublin 7

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

4648/22

Applicant(s)

Murcian Limited

Type of Application

Permission and Retention

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellant(s)

Patrick Coyne

Observer(s)

None

Date of Site Inspection

5th September 2023

Inspector

Joe Bonner

1.0 Site Location and Description

- 1.1. The building subject to this application has street frontage onto three streets, with the front facing Ormond Quay to the south, while Ormond Place is located to both the north (rear) and west (side). The eastern side of the building abuts a five-storey office building.
- 1.2. The site accommodates a four storey over basement building on Ormond Quay, while the rear section consists of two storeys above ground floor. The central section is single storey with a mezzanine level.
- 1.3. The application relates to the entire ground floor area as well as the basement/cellar and the mezzanine area in the central part of the building that collectively operated as a public house until 2013.
- 1.4. The Ormond Quay elevation of the building extends to c9m in width, and the main access is located on the corner adjacent to the pedestrian lane at its western side. The rear of the site has 11.538m of frontage onto Ormond Place and has a double door gated entrance. The western side of the building extends for 28.39m along the granite paved pedestrian lane while a four-storey office block is located on the western side of the lane. A second entrance door to the public house is located on the side elevation c13m from Ormond Quay.
- 1.5. The three floors above the Ormond Quay frontage and the two floors above the Ormond Place frontage are in residential use and do not form part of this application. Access to the Ormond Quay facing apartments is via a door on the lane at the side of the building adjacent to the side entrance to the public house, while a separate access is provided to the apartments at the rear from Ormond Place, adjacent to the rear gated access/egress to the public house. Several bright downlights at the rear of the premises illuminate the lane during hours of darkness, while a number of security cameras are also present of the premises.
- 1.6. The site has a stated area of 293sqm, and the building has a stated floor area of 711sqm. The floor area subject to this application is 355sqm.

2.0 Proposed Development

2.1. The building subject to the application is a Protected Structure (RPS Ref. No 6083).

2.2. The application that was submitted to the Planning Authority comprised of:

- Retention of works to the basement and other internal works at ground floor.
- Permission for internal alterations, repair and refurbishment of the existing public house in the basement and ground floor.
- Permission for four sets of treble doors and new door openings giving direct access from the existing public house to Ormond Place at ground level, to the West of the building.

2.2.1 Notwithstanding the proposal to create four No. 2.4m wide door openings in the side elevation 'giving direct access from the existing public house to Ormond Quay', no further references were made in the application documents or drawings to any proposed use of the lane associated with the public house.

2.2.2 The application included an 'Architectural Heritage Impact Assessment' that appraised the potential impacts of unauthorised development carried out within the building, on the architectural heritage of the building.

2.3. The following information was furnished to the Planning Authority by way of the response to the request for further information:

- Revised plans that reduced the number of proposed treble doors along the side of the building from four to two. The two doors would be located at the points in the facade where two high level windows are currently located.
- A more detailed floor plan than what was originally submitted.
- A drawing showing the layout of the building prior to the carrying out of unauthorised development.
- An updated 'Architectural Heritage Impact Assessment' (AHIA) identifying works that had been carried out to date.
- The date when the public house last traded.
- Confirmation that the upper floors are in residential use.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. A decision to grant permission was issued by Dublin City Council on 28th April 2023, subject to the attachment of 9 conditions including:

- Condition No. 2 - restricted the number of new openings on the western elevation to one unless a second is required for building regulations purposes. The reason for attaching this condition was to protect the residential amenities of adjoining occupiers.
- Condition No. 3 - required revised internal architectural conservation details including plans and sections to be submitted, showing a reduction in the width of the proposed door/s on the side elevation to match the width of the existing window openings as well as details of the competent expert that would oversee the works and a methodology for how the works would be carried out.
- Condition No. 4 - sets out requirements to protect, record and reinstate archaeological elements of the structure.

3.2. Planning Authority Reports

There are two planning reports on file, one dated October 2022, which sought further information and the second dated April 2023 which assessed the response to further information and is the basis for the Planning Authorities decision to grant permission.

3.2.1. Planning Officer's First Report

The Planning Officer's first report stated that:

- A pub has been operating on the site since 1882.
- The purpose of providing four doors on the side elevation is not stated in the application and while they could help animate the side lane and provide surveillance, this needs to be balanced against the potential for noise and disturbance to nearby residents from patrons spilling out onto the lane.

- As the proposed doors would open directly onto the lane, any proposal for tables and chairs on the lane would require a street furniture license, but this is unlikely to be granted due to the narrow width of the lane.
- The Conservation Planning Division was concerned about the loss of original building fabric from the four proposed doors.
- Further information was sought consistent with the reports of the Conservation Officer and Archaeology Section, as well as seeking clarification about when a public house last operated, as well as the use of the first floor.

3.2.2. Planning Officer's Second Report

The Planning Officer's second report is the basis for the decision to grant permission and stated:

- The new Dublin City Development Plan came into effect in December 2022, the Z5 zoning had not been changed and the site is still located within a red hatched conservation area.
- While the Conservation and Archaeological reports expressed serious concern in relation to the extent of unauthorised works carried out to date and the loss of original fabric, they both recommended a grant of permission subject to conditions to address their remaining concerns.
- The public house last traded in June 2013.
- It is not clear if the authorised use of the building is still as a public house or whether that use is considered to have lapsed. However, this application is not for a change of use, which would be considered a separate issue and any proposal to reinstate the use is not being assessed as part of this application.
- The upper floors have been in continuous residential use since 2002.
- To balance the needs of opening up the side street against the need to protect the amenities of residents from patrons spilling onto the public footpath, it is considered that the number of openings should be reduced to one with any further openings being solely for the purpose of emergency escape.

3.2.3. Other Technical Reports

Drainage Division - 29th August 2022 - no objection subject to conditions.

Archaeology Section First Report

- The site is located within the zone of archaeological interest of the recorded monument DU018-20 (Historic City), and it is a policy to protect and preserve these monuments. The works may potentially be in breach of section 12 of the National Monuments Act as amended in 1994. Further information was sought requiring the applicant to consult with the City Archaeologist regarding the preparation of an Archaeological Impact Assessment.

Archaeology Section Second Report (on Further Information)

- The Archaeological Impact Assessment confirms that significant early fabric has been lost because of unauthorised works and is of serious concern.
- A condition should be imposed requiring a method statement and details of monitoring, to ensure an accurate reinstatement of the cross-wall and diagonal chimney breast at basement level.

Conservation Officer's First Report

- Significant development has taken place without the benefit of planning permission, which resulted in the loss of important historic fabric, including the installation of a new concrete floor slab in the basement.
- The further loss of historic fabric by the insertion of four doors on the side elevation is not supported.

Conservation Officer's Second Report (on Further Information)

- While the revised Archaeological Impact Assessment confirmed that significant early fabric had been lost, a grant of permission was recommended subject to conditions, to ensure historical, particularly early provenance is retained.

3.3. Prescribed Bodies

- Submissions were invited but not received from 1) An Taisce, 2) Department of Housing, Local Government and Heritage, 3) The Heritage Council, 4) Irish Water, 5) TII, 6) National Transport Authority, 7) Failte Ireland and 8) An Chomhairle Ealaion.

3.4. Third Party Observations

- 3.4.1. One third party observation was received on 13th September 2022 in respect of the application, from the appellant Patrick Coyne. The grounds of the observation are restated and expanded upon in the grounds of the appeal (see section 6.1).

4.0 Planning History

4.1. Application Site

- **P.A. Ref. 1521/97** – Permission granted on 1st October 1997 for ‘change of usage of the existing first floor office space into a lounge bar with additional toilet facilities at Out of the Liffey licensed premises.
- **Enforcement Ref. E0315/17** – Enforcement proceedings were commenced regarding the unauthorised removal of part of both the ground and basement floors as well an internal wall. This application is seeking to address the unauthorised development. A Structural Engineer's letter that is included in the application confirming that the building was structurally sound, and the works carried out were essential repair works due to water ingress.

5.0 Policy Context

5.1. Dublin City Development Plan 2022 - 2028

- 5.1.1. The relevant Development Plan is the Dublin City Development Plan 2022-2028, which came into effect on the 14th of December 2022.
- 5.1.2. The site is zoned 'City Centre - 'Z5'', the objective for which is 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen

and protect its civic design character and dignity'. Permissible uses in Z5 areas include 'public house'.

- 5.1.3. No 27 Ormond Quay is listed as a 'Business Premises' in the Record of Protected Structures (No 6083), with no additional description or information provided.
- 5.1.4. Policy BHA2 refers to 'Development of Protected Structures' sets out the criteria to be considered for developments affecting Protected Structures.
- 5.1.5. Except for a small section at the back/northern side of the building, the site is located in a Conservation Area. Section 15.15.2.2 'Conservation Areas' provides that all planning applications for development in conservation areas shall:
 - Respect the existing setting and character of the surrounding area.
 - Protect the amenities of the surrounding properties and spaces.
 - Positively contribute to the existing streetscape.
- 5.1.6. Policy BHA9 provides that development within 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.
- 5.1.7. The site lies within the boundary of the Zone of Archaeological Interest for the Recorded Monument DU018-020 (Historic City) and Section 11.5.5 and Policy BHA 26 of the Development Plan protect zones of archaeological interest and protected structures from any works that would negatively impact their special character and appearance.
- 5.1.8. Section 14.7.5 of the Development Plan states that the primary purpose of the Z5 zone is to sustain life within the centre of the city through intensive mixed-use development. The strategy is to provide a dynamic mix of uses which interact with each other, help create a sense of community, and which sustain the vitality of the inner city both by day and night'. It continues by stating that 'as a balance, and in recognition of the growing residential communities in the city centre, adequate noise reduction measures must be incorporated into development, especially mixed-use development, and regard should be given to the hours of operation'.

5.1.9. Section 7.5.7 Evening and Night Time Economy states that 'Evening and night- time economy uses contribute to the vitality and vibrancy of the city centre and contributes positively to the visitor experience and local economy.' It includes the following policies:

- CCUV35 - Night Time Economy
- CCUV36 - New Development

5.1.10. Section 9.5.8 'Noise Pollution' includes the following objectives: -

- SIO 23 - Dublin Agglomeration Environmental Noise Action Plan
- SIO24 - Noise Monitoring and Enforcement

5.1.11. Section 12.5.4 'Supporting Cultural Vibrancy in the City' provides that 'a wide range of cultural facilities is the lifeblood of a city, and this included public houses. The plan contains objective **CUO40** Victorian and Edwardian Public Houses under the heading of 'Night Time Cultural Activities' that seeks to protect Dublin's unique heritage of Victorian and Edwardian public houses as a central part of the city's cultural offer, and resist changes of use that would result in the loss of such premises from their traditional role where they are open to public use.

5.2. Section 15.14.12 referring to licensed premises states that there is a need to strike an appropriate balance between the role of entertainment users and the economy of the city and protect the amenities of residents from an over concentration of late-night venues and that noise emanating from that the boundaries of these establishment are issues which need to be addressed in planning applications for such establishments.

5.3. **NIAH**

5.3.1. As well as being a Protected Structure, the building is listed in the National Inventory of Architectural Heritage (NIAH) which assigns it a regional rating, of architectural and social interest. It is stated that the three-bay four-storey public house was built c1880 and that the late nineteenth-century facade adheres to the eighteenth-century proportions of the street, while the red brick and large window panes are typical of its later development. Its historic character is enhanced by the presence of granite kerbstones to the south, and a granite-paved lane to the west. It notes that No.27

traded as a grocers and spirit merchants during the nineteenth and twentieth centuries and continues this trade as a public house today (being 2012, when the property was assessed).

5.4. National Policy and Guidelines

5.4.1. Architectural Heritage Protection Guidelines (2011)

These guidelines outline the responsibilities of the Planning Authority in preserving the character of protected structures and conservation areas within their functional area and the following chapters are relevant:

Chapter 2 The Development Plan: Record of Protected Structures

Chapter 3 – Architectural Conservation Areas

Chapter 10 Openings: Doors and Windows,

5.5. Natural Heritage Designations

- None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third-party appeal was lodged by Patrick Coyne, with an address at 7 Arran Street East, Dublin 7, c90m north west of the rear of the site. The issues raised in the appeal can be summarised as:

6.1.2. The planning department did not but should have addressed the issues raised in the initial observation, which are:

- The applicant wants to renew the pub licence and plans to utilise the laneway for outside eating, drinking, and smoking.
- The pub is only a few metres away from resident's bedrooms at Ormond Square.
- The use of the outside area will result in noise pollution in the early morning hours and will negatively impair the established rights of nearby resident to live in peace.

- Permission should be refused as this use is inappropriate for the location.

6.1.3. The grounds of appeal continue by stating:

- The use of the laneway was not restricted by the Planning Authority by condition. It was suggested in the Planning Officer's report that the applicant would need to apply for a Section 254 license that would allow the placement of outdoor furniture on the street and smoking.
- The proposed development of a smoking area near bedrooms is unacceptable.
- The Gardai rarely enforces noise nuisance from licenced premises while the Council noise control or street furniture units rarely work at night.
- The development will inevitably diminish the residential amenities of Ormond Square residents and the people living above the premises to the point where they can no longer enjoy their dwellings in peace.
- The decision contradicts Policies CCUV36, SIO23 and SIO24 of the Dublin City Development Plan 2022-2028.
- While barristers often tell courts that planning and licencing codes are separate and distinct codes of law, nuisance that may result on the public footpath from the granting of a licence should have been addressed by the planning authority.
- The Planning Officer and applicant have both incorrectly referred to the building as an 'existing public house'.
- Is this application for a change of use or an intensification of use?
- The applicant should lodge a new application changing the orientation of the proposed use of the ground floor.
- The Board cannot rectify the development by condition and permission should be refused.

6.2. **Applicant Response**

- None.

6.3. Planning Authority Response

- None.

6.4. Observations

- None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the response to further information and information received in relation to the appeal, having inspected the site, and having regard to relevant planning policies, I am satisfied that the main issues in this appeal are the planning matters raised in the grounds of appeal and the planning officer's report and they can be dealt with under the following headings:

- Development Plan
- Residential Amenity
- Impact on Protected Structure and Conservation Area
- Policy
- Appropriate Assessment

7.1.1. In the interest of clarity for the Board, while reference is made in this assessment to the original proposal that included four door openings in the side elevation, this assessment is based on the amended design, and associated plans and particulars submitted in response to the request for further information which proposed two doors on the side elevation, as the revised design is the subject of both the decision to grant permission and the appeal.

7.2. In addition, I make the following brief comments on the following issues raised in the grounds of the appeal:

- **Licencing Legislation** – At present the premises does not have a licence to sell liquor. A licence to sell liquor is governed by another legislative code to planning and

must be issued by a Court. An application to a Court for a liquor licence must be accompanied by a map indicating the area to which the licence would apply. The site that is subject to this planning application is outlined in red on the site location and layout maps, refers to the extent of land in the control of the applicant and does not include any part of the public streets abutting the premises. In addition, the planning application does not include the seeking of permission for the consumption of liquor on any public street, so matters raised in the appeal in respect of the renewal of the liquor licence and consequent impacts outside of the red lined site lie outside the scope of this appeal.

- **Street Furniture** – A licence for the placement of street furniture on the public footpath/outside of the red lined site boundary can only be granted in accordance with an application for a Street Furniture License under Section 254 of the Planning and Development Act 2000 (as amended) or by way of a grant of planning permission. As the placement of street furniture on the lane does not form part of this planning application and the public footpath lies outside the red lined site boundary, matters raised in the grounds of appeal in respect thereof lie outside the scope of this appeal.
- **Enforcement of noise nuisance by An Garda Siochana and Street Furniture Unit (of DCC)** – These statutory bodies and their functions are regulated by their own codes and conclusions under these codes are matters which lie outside of the scope of this appeal.
- **Use as a Pub, Change of use or Intensification of Use** – Because the building is not currently in use as a public house, the appellant raised the question as to whether or not the proposed development constitutes a change of use or an intensification of use. The description of the development as per the public notice is for works to a building that has historically been and was last used as a ‘public house’ which is a land use that is permitted on ‘Z5 City Centre’ zoned lands and I am satisfied that the application under consideration does not constitute 1) an application for the use of the building as a pub, 2) permission for a change of use or 3) an intensification of use.

7.3. Development Plan

- 7.3.1. It is noted that the planning application was initially assessed under the policy provisions of the Dublin City Development Plan 2016-2022, but reference was made in the final reports of the Planning Authority to the 2022-2028 Dublin City Development Plan that had been adopted after the request for further information had been issued. This assessment is based on the provisions of the Dublin City Development Plan 2022-2028, which came into effect on 14th December 2022.

7.4. Residential Amenity

- 7.4.1. Notwithstanding that the application is for works rather than use, it is necessary to address residential amenity in the context of the proposed door openings onto the lane at the side of the building.
- 7.4.2. The primary purpose of the sites 'City Centre - Z5' zoning is to sustain life within the centre of the city through intensive mixed-use development that will sustain the vitality of the inner city both by day and night. It also states that noise reduction measures must be incorporated into development, especially mixed-use development, to protect the amenities of the surrounding properties and regard should be given to the hours of operation. Hours of construction is the only time period that is relevant to this application.
- 7.4.3. The Development Plan also states that vibrant ground floor uses should be promoted subject to the application of development management standards and that ideally, a mix of uses should occur both vertically through the floors of buildings as well as horizontally along the street frontage. A 'Public House' is one of the 'permissible uses' on Z5 zoned lands, so the principle of a public house is acceptable at this location.
- 7.4.4. The appellant has raised concerns that noise and smoking emanating from patrons using the lane outside of the premises will have a significant negative impact on the residential amenities of adjacent residential properties, some of which are located as close as 11m from the rear of the building. Empty cans of alcohol and broken alcohol bottles were observed on the lane during the site visit, suggesting that the lane is informally used as a place for street drinking, while a torn bag of domestic waste was also observed at the rear of the lane.

- 7.4.5. The original application proposed four triple doors on the western elevation measuring 2.4m each in width which would open outwards into the adjacent footpath, effectively opening up the side of the building to the street with a combined 9.6m of openings, which equates to approximately one third of the entire length of the side elevation of the building.
- 7.4.6. By way of the request for further information, which followed consideration by the Planning Authority of the concerns raised by the appellant in their initial observation, as well as concerns from the Conservation Officer about the impact of the loss of original building fabric from the four proposed doors, the number of doors proposed in the side elevation was reduced to two, which would still be 2.4m each in width and would open out into the street to the west. The revised proposal removed the two doors that would have been located closest to the houses on Ormond Square, meaning that the nearest opening in the revised plans to the rear of the houses on Ormond Square would be c19m away.
- 7.4.7. Condition No. 2 of the decision to grant permission further reduced the number of doors that would be permitted to open out onto the street to one (with a second door potentially permissible for fire exit purposes only). The reason for attaching Condition No. 2 was to protect the residential amenities of adjoining occupiers rather than the potential impact on the character of the protected structure.
- 7.4.8. Condition No. 3 required the width of the two permitted openings to be reduced from 2.4m to match the width of the existing high-level windows which the doors would replace which is c1.55m, which represents only 65% of the width of the doors as proposed in the application. The reason for the reduction in width is to protect the original fabric, character, and integrity of the protected structure, which I consider to be reasonable.
- 7.4.9. In total the number of new door openings onto the lane that could be used by patrons of the premises has been reduced from four as originally proposed to one by way of condition (or possible two in the case of emergencies) and I am satisfied that the planning authority did take the appellants concerns into account in assessing the application and this is evident in the conditions imposed on the decision to grant permission.

- 7.4.10. It is noted that the applicant did not appeal against the imposition of Condition No's 2 and 3 which restricted the number of door openings and the width of the openings, nor did they raise any concerns in respect of these matters by way of a response to the grounds of the appeal.
- 7.4.11. The purpose of the proposed doors is stated in drawing PL_112 to give direct access from the bar to the lane and this reflects the description of the proposed development in the public notices. It should be noted that in addition to the proposed door/s, there is an existing door at the side of the building that provides direct access to the adjacent lane, and it is located less than one metre from the easternmost of the existing high-level windows. Other means of access and egress from the premises are also located at the front and rear of the building. The proposed openings would benefit from little or no direct sunlight due to the orientation of the building, the height of the adjacent building on the opposite side of the lane and the width of the lane, so I am satisfied that access to the lane and the opening up of the public house into the lane to facilitate patrons to use the lane would be the primary purpose of the doors.
- 7.4.12. While the lane could be used by patrons of the public house for drinking and smoking without the construction of the proposed doors, via the existing front or side doors that already provide direct access to the lane, the opening of any one or more doors in the side elevation will increase the likelihood that the lane would be used for such purposes on a frequent basis. The use of the lane does not constitute part of this application, is not part of a licensed premises and a Section 254 Street Furniture Licence has not been sought or permitted to use the lane for purposes associated with the public house. The extent of potential impacts on residential amenity from the use of the lane can only be fully assessed when the full extent of the area that would be used for the placement of street furniture and/or the consumption of alcohol on the lane have been provided and no such proposal has been provided as part of this application.
- 7.4.13. Several ground floor windows in the adjacent office building overlook the lane and provide a level of passive surveillance during office hours. The lane would benefit from additional surveillance and the provision of windows or doors on the side

elevation of the building could provide such surveillance and could act as a deterrent to unregulated drinking that appears to be carried out on the lane at present.

7.4.14. Taking the amenities of resident and the benefits of passive surveillance on the lane into account and the fact that the existing side and front doors provide direct access to the lane, I am satisfied that the provision of an additional door opening in the side elevation of the building will not negatively impact the residential amenities of neighbouring properties and would be acceptable.

7.5. Impact on Protected Structure and Conservation Area

7.5.1. Other than the proposed doors in the side elevation, all other proposed works relate to the interior of the structure including retention of works carried out to date as well as proposed alterations, repairs, and refurbishment to the protected structure. I am satisfied that the development as proposed, constitutes an acceptable form of development subject to the attachment of conditions.

7.5.2. I am also satisfied that the creation of one additional door that would be installed in the same place as one of the existing high-level window opes in the side elevation, and would be the same width as the existing window, is an acceptable form of development and would not have a significant negative impact on the character or appearance of the protected structure.

7.5.3. With respect to Conservation Areas, I further consider that the proposed elevational changes by way of the creation of a new door in the place of an existing window, would not damage the character or distinctiveness of the Conservation Area nor would it detract from any special feature or the architectural interest of the area. I consider that an additional door would improve the sense of security on the lane and connection between the building and the adjacent lane, thereby enhancing the appearance and setting of the lane.

7.6. Policy

7.6.1. The grounds of appeal state that the proposed development is contrary to policies CCUV36, SIO23 and SIO24 of the Dublin City Development Plan 2022-2028.

CCUV36

- 7.6.2. CCUV36 refers to new developments in the evening and night time economy where there is little impact on the amenities of adjoining or adjacent residential uses through noise disturbance where there are no negative cumulative impacts in terms of other night time economy uses in the area. There are no immediately adjacent night time uses and no evidence has been provided by the appellant to demonstrate cumulative impacts. It is noted that a few public houses have closed in the north inner-city area, close to the site in recent years, including The Chancery Inn / O'Reilly's c70m to the west of the site along the quays.
- 7.6.3. Public Houses have operated on this site from the 1880's up until 2013 and this application does not refer to a new use or a new development. The proposed development refers to works only and I am satisfied that the proposed works to the existing building are not contrary to policy CCUV36.

SIO23

- 7.6.4. Under the heading of Noise Pollution SIO23 Dublin City Council seeks to support the implementation of the Dublin Agglomeration Environmental Noise Action Plan 2018-2023.
- 7.6.5. The responsibility for implementation of the Plan lies with Dublin City Council and Appendix E sets out Dublin City Council's Noise Nuisance Policy regarding - Music noise from a public house / nightclub and states that Dublin City Council investigates complaints regarding noise nuisance caused by the playing of amplified music at public houses / nightclubs. Generally, this type of complaint arises when a licensed premises is playing music to an intrusive level, until late at night. A complainant, in this instance, will usually be requested to keep a written record of the noise nuisance as it occurs.
- 7.6.6. Section 7.6.1.3 of the Action Plan notes that matters such as noise emanating from and at the boundaries of licenced premises are issues which will need to be addressed in planning applications for such establishments while noise insulation and reduction measures, especially relating to any mechanical ventilation or air-conditioning, will be required to be submitted with any such planning application. Conditions may also be imposed regarding opening hours and noise levels.

7.6.7. The application under consideration relates to works only and not to any use and I am satisfied that while a condition may be imposed regarding hours of work and noise levels emanating from the construction works, the noise issues addressed in the grounds of appeal regarding the operations of the facility as a public house do not form part of the application being considered and I am therefore satisfied that the proposed development is not contrary to Policy SIO23.

SIO24

7.6.8. SIO24 state that it is an objective to support and facilitate the monitoring and enforcement by the environmental health department of noise reduction measures in the areas experiencing excess noise.

7.6.9. The functions of the environmental health department of Dublin City Council with respect to the enforcement of noise complaints are outside the scope of this appeal.

8.0 Appropriate Assessment

8.1.1. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, 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 the conservation objectives of any European site.

9.0 Recommendation

9.1. I recommend permission be GRANTED for the following reasons and considerations and subject to the following conditions.

10.0 Reasons and Considerations

Having regard to the nature and extent of the proposed development, which constitutes works to an existing protected structure, the pattern of development in the area and the City Centre zoning objective of the site in the Dublin City Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the

residential amenities of the area, would not negatively affect the character of the existing protected structure and would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 10th of August 2022, as amended by the revised plans and particulars submitted on 4th April 2023, 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.</p> <p>Reason: In the interest of clarity</p>
2.	<p>a) Only one of the two doors proposed and shown in the side/western elevation in Drawing PL_112 submitted to the Planning Authority on the 4th of April 2023 shall be provided and it shall be reduced in width to match the width of the existing high-level windows to the north of the existing side access door to the premises from Ormond Place and will be formed in the same locations as the existing windows.</p> <p>b) Revised plans and elevations showing the above amendment shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: To protect the residential amenities of the area.</p>
3.	<p>a) A Conservation Method Statement including a detailed programme of conservation works to be carried out and materials to be used, shall be prepared by an architectural conservation expert who shall be employed to</p>

	<p>manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. The Conservation Method Statement shall be submitted to and agreed in writing with the planning authority prior to commencement of development and shall be accompanied by detailed revised plans and sections accurately demonstrating that:</p> <ul style="list-style-type: none"> i) the chimney breasts at ground and basement floor levels, and the cross wall in the basement will be fully and accurately reinstated. ii) there are no conflicts between the reinstated historic elements of the building and the proposed floor plan layouts. iii) there is clear distinction between historic elements of the structure that are to be reinstated and new interventions. <p>(b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.</p> <p>(c) All existing original features shall be protected during the course of refurbishment.</p> <p>Reason: To ensure that the integrity of the retained structure is maintained and that the structure is protected from unnecessary damage or loss of fabric.</p>
4.	Prior to the commencement of development, the developer shall submit the following information for the written approval to the Planning Authority.

	<p>a) Test trials for the removal of the tanking system are to be carried out for inspection by the Planning Authority so that the impact of the potential removal of same can be fully assessed. Tanking systems such as the type applied to the walls at basement level can conceal rather than address dampness and they prevent the historic fabric regulating moisture effectively which can potentially damage the fabric and adjacent historic structures. Furthermore, the tanking system conceals early significant historic fabric, which is now susceptible to further decay as a result of the application of an inappropriate material. Should it be demonstrated that the tanking system can be removed, an alternative means of addressing dampness within the basement is to be provided which retains breathability and primary fabric. Should it be found that the tanking can be removed, the east and west walls of the Cellar Room 03 are to be reassessed and a revised methodology for the treatment of any surviving historic features is to be submitted to the Planning Authority for approval.</p> <p>Reason: To ensure that the integrity of the retained structure is maintained and that the structure is protected from unnecessary damage or loss of fabric.</p>
5.	<p>The developer shall comply with the following archaeological requirements:</p> <p>a) The downstand beam and stub walls in line with the former rear wall of the property shall be retained.</p> <p>b) The developer shall retain a suitably qualified licensed-archaeologist to advise regarding the archaeological implications of site clearance, demolition and/or construction methodology and to make appropriate recommendations for mitigation including detailed survey as necessary. The archaeologist shall provide a Method Statement of works and an Archaeological Impact Assessment of the proposed development (including temporary and enabling works) to the Planning Authority prior to monitoring.</p>

	<p>c) The archaeologist shall undertake licensed archaeological monitoring of all demolition and sub-surface works associated with the development and the developer shall allow for the resolution of archaeology (both on site and necessary post excavation) in the project budget and timetable.</p> <p>d) In the event of in situ archaeological features being located in the course of the monitoring, the developer shall facilitate the archaeologist in fully recording such features, including all post-1700 AD in situ features and layers. Full archaeological excavation of such features may be a requirement. At a minimum recording of all archaeological features shall include a written, photographic, and drawn survey record.</p> <p>e) The archaeologist shall provide to the planning authority a written, drawn, and photographic record of all early fabric visible within the basement level and any in situ archaeological features discovered as a result of archaeological monitoring shall be immediately notified to the Planning Authority. The Planning Authority shall determine the further archaeological resolution of the site prior to the recommencement of works.</p> <p>f) The format of the archaeological monitoring report and any post monitoring reporting requirements shall be agreed in writing with the Planning Authority prior to the commencement of development and an agreed number of copies of the final report shall be submitted to the planning authority within 6 months of completion of the development or within such extended period as may be agreed with the planning authority.</p> <p>Reason: In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional</p>

	<p>circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
7.	<p>The construction of the proposed development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the proposed development, including noise management measures, traffic management and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interest of public safety and residential amenity.</p>
8.	<p>No signage, advertising structures / advertisements, security shutters or other projecting elements, including flagpoles, shall be erected on the building or within the site unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the visual amenities of the area.</p>
9.	<p>Prior to the commencement of development, a water supply and drainage management plan including details relating to flood risk management measures, shall be submitted to, and agreed in writing with the planning authority.</p> <p>Reason: In the interest of public health</p>

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.

Joe Bonner
Senior Planning Inspector
22nd November 2023