



An
Bord
Pleanála

Inspector's Report

ABP-319887-24

Development	Retention for a change of use from retail to a souvenir shop and permission sought for the removal and replacement of signage.
Location	111 Grafton Street, Dublin 2
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3438/24
Applicant(s)	Fashinflo Investments Limited
Type of Application	Retention and Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	FashionFlo Investments Limited
Observer(s)	None
Date of Site Inspection	22 nd November 2024
Inspector	Frank O'Donnell

1.0 Site Location and Description

- 1.1. The subject appeal site is located at no. 111 Grafton Street, Dublin 2. The site has a stated total area of 184.8 sqm and comprises the ground and first floor of an existing mid terrace shop unit. The ground and first floor have stated floor areas of 101.4 sqm and 94.80 sqm respectively (stated combined floor area of 196.22 sqm). The subject appeal site is located within the Grafton Street and Environs Architectural Conservation Area (ACA) and Scheme of Special Planning Control for Grafton Street and Environs area (ASPC).

2.0 Proposed Development

- 2.1. The proposed development can be summarised as follows:
- Retention for a change of use from retail to souvenir shop on the ground and first floor levels of an existing unit. The stated combined floor area measures 196.22 sqm, comprising 101.4 sqm on the Ground floor and 94.80 sqm on the first floor.
 - Permission for the removal of existing façade signage to the front of the subject premises above the ground floor and replacement of same with proposed new individual pin mounted metal / stainless steel back lit letters on backboard.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Local Authority issued a Decision to REFUSE permission on 15th May 2024 for the following 1 no. reason:
1. *It is considered that the retention of the use of this unit as a souvenir shop will not achieve an appropriate mix and balance of uses on this part of Grafton Street, in particular higher order comparison retail outlets, to provide for a high-quality shopping area. The proposed development would therefore materially contravene (Section: 1.1.6) Key Objective 2 of the Scheme of Special Planning Control for Grafton Street, 2019 and the*

objectives of the 2022-2028 Dublin City Development Plan. The proposed development would set an undesirable precedent for similar type development, would devalue property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Local Authority Planner** considered that Grafton Street is within a Scheme of Special Planning Control and a Category 1 shopping street, where the stated policy is to protect the primary retail function of these streets as the principal shopping streets in the retail core with an emphasis on higher order comparison retail. Having regard to the current mix of lower order retail uses and comparison retail uses along this part of Grafton Street, the Local Authority Planner considered that the retention of this unit as a souvenir shop would not promote an appropriate balance of higher order retail uses on the street and prevent an over-concentration of non-fashion or fashion related uses. It is considered by the Local Authority Planner that the retention of the use would not complement the area's status as a premier shopping street and it was therefore recommended that retention planning permission be refused.

3.2.2. Other Technical Reports

- The **Drainage Division** raise no objection to the proposed development subject to 1 no. standard condition.

3.3. Prescribed Bodies

- **Transport Infrastructure Ireland (TII):** Section 49 levy.
- **Irish Water:** No response received.
- **Department of Arts, Heritage & The Gaeltacht:** No response received.
- **An Taisce:** No response received.
- **The Heritage Council:** No response received.
- **The Arts Council (An Chomhairle Ealaíon):** No response received.

- **Failte Ireland:** No response received.
- **National Transport Authority (NTA):** No response received.

3.4. Third Party Observations

- None

4.0 Planning History

4.1. Planning History on the subject appeal site

- **3360/03:** Permission for a change of use from office use at ground and first floor to retail use. Permission was GRANTED on 14th January 2004 subject to 5 no. conditions.
- **E0845/22:** Enforcement file opened in relation to illuminated signage.
- **EO455/23:** Enforcement file opened in relation to change of use.

4.2. Planning History in the vicinity of the subject appeal site:

Unit no. 109 Grafton Street:

- **4590/17 (Appeal Ref. No. ABP-301263):** Retention permission for change of use from newsagents with delicatessen for the sale of hot and cold food and off-licence to gourmet salad bar/ delicatessen (Freshly Chopped - The Healthy Food Company) for the sale of gourmet fresh salads, sandwiches and soups; (ii) retention and permission for new shopfront and revised fascia level signage. Permission was REFUSED on 17th September 2018 for the following reason:

1. *The proposed retention and permission of the change of use to gourmet salad bar/delicatessen for the sale of gourmet fresh salads, sandwiches and soups, would result in a loss of a ground floor retail unit and presence on Grafton Street, a Category 1 shopping street, where the Development Plan policy is to protect the primary retail function of these streets as the principal shopping streets in the retail core with an emphasis on higher order comparison retail and a rich mix of uses. It is considered that the proposed retention and permission*

would seriously injure the amenities of the area, would detract from the retail character, would result in an undesirable precedent for future non-retail development on this street and would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The subject appeal site is zoned Z5 City Centre the zoning 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.*’ The site is located within the Grafton Street and Environs Architectural Conservation Area and the Scheme of Special Planning Control for Grafton Street and Environs area (ASPC). The site is also located within a Red Hatched Conservation Area.
- 5.1.2. Chapter 7 of the Plan relates to the City Centre, Urban Villages and Retail. The subject appeal site is located within the defined City Centre Retail Core. Both Grafton Street and Henry Street are identified as Category 1 Streets within the Retail Core, see Figure 7.2 of the Plan.
- 5.1.3. Sections 7.1, 7.2 and 7.3 of Chapter 7 relate to Introduction, Achievements and Challenges. As noted in Section 7.2 (Achievements), the Grafton Street Area of Special Planning Control (ASPCs) ‘*remains pivotal in ensuring that only suitable uses are permitted in the heart of the city... these schemes allow Dublin City Council to specify development objectives for the preservation or enhancement of these areas. This will ensure the protection of the special and unique character of Grafton Street, which is intrinsically linked to specific retailers and uses.*
- 5.1.4. The following Policies, as set out in Section 7.5, are considered to be of relevance to the subject proposal:

Policies

- CCUV10: Specialist Shops, CCUV13: Vacant Units, CCUV15: Premier Shopping Area,

- CCUV16: Category 1 and Category 2 Streets: *To protect the primary retail function of Category 1 Streets in the city and to provide for a mix of retail and other complementary uses on Category 2 streets. To promote active uses at street level on the principal shopping streets in the city centre retail core having regard to the criteria for Category 1 and Category 2 streets (see Appendix 2 and Figure 7.2).*
- CCUV18: Residential Development.

Objectives

- CCUV08: Review of Architectural Conservation Areas / Areas of Special Planning Control.

5.1.5. Chapter 11 of the Plan relates to Built Heritage and Archaeology. Section 11.5.2 relates to Architectural Conservation Areas and includes the following policies which are considered to be of relevance to the subject proposal:

Policies

- BHA7: Architectural Conservation Areas,

5.1.6. Chapter 14 of the Plan relates to Land Use Zoning. Section 14.7.5 of the Plan provides guidance in relation to City Centre – Zone Z5 and includes a list of Permissible Uses and Uses which are Open for Consideration. A Shop (district, local, major comparison, neighbourhood) is listed as a use which is Permitted in Principle on Z5 Lands. A ‘Souvenir Shop’ is not listed as a use which is either ‘Permitted in Principle’ or ‘Open for Consideration’ on lands zoned Z5 City Centre.

5.1.7. Chapter 15 of the Plan relates to Development Standards. Section 15.17.5 relates to Shopfront and Façade Design.

5.2. **Grafton Street and Environs Architectural Conservation Area (ACA) Written Statement, 2006**

5.2.1. The subject appeal site is located within the Grafton Street and Environs Architectural Conservation Area as shown on the Map in figure 1. The written statement is presented in 2 no. main parts. Part 1 is concerned with Background and Case for the ACA and Part 2 relates to Objectives and Policies.

5.3. Scheme of Special Planning Control for Grafton Street and Environs, 2019

- 5.3.1. Part 1 of the Scheme relates to Land Use. Part 1 (b) sets out development management measures, the stated purpose of which is to achieve an appropriate mix and balance of uses in Grafton Street.
- 5.3.2. Section 1.1.5 (Part 1 (b)) relates to Promotion of an Appropriate Mix and Balance of Uses – Control of New Uses.
- 5.3.3. Section 1.1.6 provides the following Key Objective
- Key Objective (2): *‘To achieve an appropriate mix and balance of uses in Grafton Street by controlling new uses and promoting higher order comparison retail outlets, in particular fashion outlets, to provide for a high-quality shopping area.’*
- 5.3.4. Section 1.1.6 provides further guidance as follows:
- *The Dublin City Development Plan 2016-2022 promotes active uses at street level on the principal shopping streets in the central shopping area having regard to the criteria for Category 1 and Category 2 streets (see para 7.6.1, Fig. 8 and also the Retail Strategy in Appendix 3). Most of the Grafton Street Area of Special Planning Control is designated as a Category 1 principal shopping street.*
 - *The Retail Core Framework Plan 2007 sets out a number of guiding strategies to underpin the strengthening, consolidation and enhancement of the retail core. This includes a strategy to create a rich mix of uses which seeks to reinforce Grafton Street as the premier shopping street in the city by ensuring that higher order retail outlets¹ are the principal use on the street. Policy RD13 of the Dublin City Development Plan 2016-2022, in referring to the status of the city centre retail core, states that regard should be had to the relevant objectives of this Framework Plan.*

¹ Definition of higher order retail - Goods are classed on a relative scale from lower order to higher order goods. Lower order goods are those goods, which consumers need frequently and therefore are willing to travel only short distances for them. Higher order goods are needed less frequently so consumers are willing to travel further for them. These longer trips are usually undertaken for not only purchasing purposes but other activities as well. (Brian J.L.Berry 1966) (Page 6, Scheme of Special Planning Control for Grafton Street and Environs, 2019).

- *It is intended to ensure that any incoming use will respect and enhance the multifaceted character of the area and allow and encourage a diversity of uses to increase its overall attractiveness for shopping, leisure and business purposes. There will be a strong presumption in favour of granting planning permission for higher order comparison retail outlets¹ including fashion outlets – both multiple and independent stores, ‘lifestyle stores’, flagship stores, niche and specialist retailers such as home furnishings, jewellery and books. A clustering of these uses in particular at ground; basement and first floor level help to develop a vibrant retail quarter.*
- *Complementary activities such as restaurants, cafes, bars, art galleries, tailors, hairdressers, barbers and beauticians and other specialist services will be encouraged at first floor level and above. Office uses will be permitted above first floor level and active encouragement will be given to the provision of residential units.*

5.3.5. Section 1.1.7 relates to Land Use Control – Control of Changes within the Use Classes. A change of use from a Shop to a number of listed uses, which includes a Souvenir/ Gift Shop now constitutes a Material Change of Use and therefore requires planning permission.

5.3.6. Section 1.1.10 relates to Land Use Control – Uses Open for Consideration and states the following:

- To promote an appropriate balance of higher order retail uses on the street and prevent an over-concentration of non-fashion or fashion related uses, planning applications for the following retail uses will be considered on their individual merits:
 - Cosmetics / beauty products
 - Hairdressers
 - Health food shops
 - Pharmacy
 - **Souvenir / gift shop²**

² *My Emphasis*

- Stationary / card shops
- The following factors will be taken into account in the consideration of planning applications:
 - The number and proximity of similar outlets already operating in the area.
 - The scale of the proposed outlet.
 - The physical impact of the proposed use on the internal structure of the building in which it will be located.
 - The quality of the shopfront design and associated signage.

5.3.7. Part 2 of the Scheme relates to Maximising the Use of Buildings and includes the following Key Objectives:

- Key Objective (3): *To attract and encourage a strong and complementary mix of uses on the upper floors of all buildings.*
- Key Objective (4): *To seek the more intensive use of the upper floors.*
- Key Objective (5): *To retain and complement the fine grain of the established streetscape in new development.*

5.3.8. Part 3 of the Scheme relates to Shopfronts and Advertisement Structures, Part 4 to the Built Fabric and Part 5 to the Public Realm. Appendix 1 includes a number of relevant Definitions and Appendix 2 relates to Appropriate Assessment and Strategic Environmental Assessment.

5.4. **Dublin City Council – Shopfront Design Guide, Shopfront Design (2001)**

5.5. **Natural Heritage Designations**

5.5.1. The site is not located within or adjacent to a Natura 2000 site. The nearest Natura 2000 sites are as follows:

- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) located c. 3.2 km to the east.
- South Dublin Bay SAC (Site Code: 000210) located c. 3.2 km to the east.

5.6. EIA Screening

- 5.6.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The Grounds of Appeal can be summarised as follows:

- The proposed development will serve to achieve an appropriate mix on the street, providing a viable use on a stretch of Grafton Street suffering from vacancy which has been both extensive and on-going.
- The proposal will not create an undesirable precedent as demonstrated by previous DCC decisions in the vicinity for the same use.
- The proposed development will occupy a unit on this stretch of Grafton Street which is suffering from extensive and long-term vacancy and will provide animation and activity at this location, providing an uplift to surrounding properties.
- The proposed development provides a retail offer to tourists visiting the City instead of leaving a vacant retail unit beside a number of other vacant retail units.

6.2. Planning Authority Response

- The Observations of the Local Authority Planner Officer have been sought and these will be forwarded as quickly as possible. (Letter dated 12th June 2024).

6.3. Observations

- None

6.4. Further Responses

- None

7.0 Assessment

7.1. Introduction

- 7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/ regional and national policies and guidance, I consider the main issues in this appeal are as follows:

- Reason for Refusal

7.2. Reason for Refusal

- 7.2.1. The ground floor of the subject premises is currently in use as a Souvenir Shop. The first floor was not accessible to the public at the time of the site inspection and would appear to have been in use for storage purposes. Nevertheless, the Applicant has sought retention of the use of the premises as a Souvenir Shop and this relates to both the ground and first floors. The 1 no. reason for refusal is concerned with this said use of the premises as a Souvenir Shop which is considered to represent an inappropriate mix and balance of uses in this area of Grafton Street.
- 7.2.2. Whilst I note Key Objective 2 of Scheme of Special Planning Control for Grafton Street and Environs, 2019, I also note that a 'Souvenir/ Gift Shop' is identified in Section 1.1.10 of the Scheme as one of a total of 6 no. uses (including Cosmetics / Beauty Products, Hairdressers, Health Food Shops, Pharmacy and Stationary / Card Shops) which are 'Open for Consideration'. It is stated that a number of factors will be taken into account in the consideration of planning applications, each of which are discussed in turn below:

- *The number and proximity of similar outlets already operating in the area.*

7.2.3. In addition to the 1 no. existing Gift Shop referenced by the Local Authority to be operating on Grafton Street, namely Carrolls Irish Gifts located at no. 37 Grafton Street (c. 300 metres to the south), I also note 2 no. other such existing Gift Shops located within the ACA, namely Card Gallery Gift Shop located at no. 31 Grafton Street (c. 260 metres to the south) and Tipperary Crystal Gift Shop located at no. 52 King Street (c. 450 metres to the south).

7.2.4. The Local Authority also reference an additional 1 no. nearby Gift Shop, namely Carrolls Irish Gifts, located at no. 22 Suffolk Street within c. 83 metres to the southwest of the subject appeal site. This said Gift Shop is located c. 37 metres outside the ACA. The Aran Store Gift Shop at no. 17 Suffolk Street is located closer (64 metres from the subject appeal site) and is adjacent to the ACA. I further note there are 5 no. Gift Shops within St. Stephen's Green Shopping Centre, c. 450 metres to the south and outside yet adjacent to the ACA (see Carrolls Irish Gifts, Retro Nation Gift Shop, House of Japan Gift Shop, Celtic Spirit Gift Shop (Unit C12) and Flying Tiger Gift Shop (Unit C12)). In the wider area there I estimate there are a further minimum of 11 no. Gift Shops within a maximum of 600 metres from the subject appeal site.

7.2.5. In summary, I estimate that the subject proposal, if permitted, would represent the fourth such Souvenir/ Gift Shop within the Grafton Street Architectural Conservation Area (ACA) and that within a wider radius of 600 metres walking distance from the subject appeal site there are a total of 19 no. existing Souvenir/ Gift Shops.

- *The scale of the proposed outlet.*

7.2.6. The proposed development seeks to retain the use of the ground and first floor as a Souvenir/ Gift Shop. The unit has a stated gross floor area of 196.22 sqm comprising 101.4 sqm gross floor area on the ground floor and 94.8 sqm on the first floor. I consider the scale of the proposed Souvenir/ Gift Shop to be significant compared to the scale of similar type Souvenir/ Gift Shops in the wider locality.

- *The physical impact of the proposed use on the internal structure of the building in which it will be located.*

7.2.7. I would not consider the physical impact of the proposed use on the interior of the structure to be significant.

- *The quality of the shopfront design and associated signage.*

7.2.8. Part of the proposed development seeks permission to remove existing façade signage and to replace same with new signage comprising new individual pin mounted metal / stainless steel back lit letters of 350 mm in height on backboard. In addition, the submitted drawings also refer to existing ‘bus stop’ signage which is proposed to remain with ‘Seasons of Ireland’ branding retained.

7.2.9. I note the Local Authority’s Assessment of the proposed external signage arrangements. I would agree that the Scheme of Special Planning Control states that letters shall not exceed 300 mm in height. Reduced lettering of a maximum of 300 mm in height would, in my opinion, be acceptable in this location.

7.2.10. I would consider the subject appeal site to be in a prominent location as opposed to an out of the way location. I would therefore agree with the Local Authority that as per recommendations contained in the Shopfront Design Guidelines, the proposed projecting signage be omitted.

- *Conclusion*

7.2.11. Having regard to

- the location of the subject appeal site on a Category 1 Shopping Street and within the Grafton Street Architectural Conservation Area (ACA),
- the assessment criteria set out in Section 1.1.10 and recommendations contained in Section 1.1.6 of the Scheme of Special Planning Control for Grafton Street, 2019 including Key Objective 2,
- the provisions of Policy CCUV16: (Category 1 and Category 2 Streets) of the Dublin City Development Plan, 2022 to 2028,

I am satisfied that the retention of the Change of Use to Souvenir Shop would not serve to provide an appropriate mix and balance of uses on this part of Grafton Street, in particular higher order comparison retail outlets, to provide for a high-quality shopping area. It is therefore considered that the proposed development, if permitted, would serve to create an undesirable precedent for similar proposals into

the future and is not in accordance with the proper planning and sustainable development of the area.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The subject site is located in an urban area. The nearest Natura 2000 sites are :
- South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), c. 3.2 km to the east;
 - South Dublin Bay SAC (Site Code: 000210), c. 3.2 km to the east.
- 8.3. The proposed development comprises the retention of a change of use from retail to souvenir shop and permission for the removal and replacement of signage.
- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- Small scale and nature of the development
 - Location-distance from nearest European site and lack of connections
 - Taking into account the AA Screening determination by the Planning Authority
- 8.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

- 9.1. I recommend that permission be refused.

10.0 Reasons and Considerations

1. The proposed retention of the change of use to a Souvenir/ Gift Shop on a Category 1 Shopping Street would not result in an appropriate mix and balance of uses on this part of Grafton Street, in particular higher order comparison retail outlets, to provide for a high-quality shopping area. The proposed development therefore conflicts with the recommendations contained in Section 1.1.6 (Key Objective 2) of the Scheme of Special Planning Control, 2019 and policy CCUV16 of the Dublin City Development Plan, 2022 to 2028. It is considered that the proposed retention would seriously injure the amenities of the area, would detract from the retail character, would result in an undesirable precedent for similar type development in the vicinity and would be contrary to 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.

Frank O'Donnell
Planning Inspector

13th December 2024

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-319887-24		
Proposed Development Summary	Retention for a change of use from retail to a souvenir shop and permission sought for the removal and replacement of signage.		
Development Address	111 Grafton Street, Dublin 2		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			Proceed to Q3.
No	X		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		N/a	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ Date: _____