



The Dublin Business Alliance

Second Floor

1-5 Crampton Court

Temple Bar

Dublin 2

Date:

To: Dublin City Planning Department
Civic Offices
Wood Quay
Dublin

Planning Ref. 4121/18:

Dear Sir or Madam,

We, The Dublin Business Alliance, a collective of representative associations including the Temple Bar Company, The Licensed Vinters Association and the Restaurant Association of Ireland, wish to make a submission to the Council in relation to current planning application Ref. 4121/18. This is an application for permission for development comprising

- 1) demolition of existing bathroom block (c.51m²) and reconfiguration of existing services area to provide new off street waiting area at ground floor level on eastern boundary with new access gate off Merchant's Quay and pergola canopy over;*
- 2) new single storey bathroom block (c.77.5m² GFA), reconfigured service yard with new escape stairs and new boundary wall to southern elevation and smoking area along eastern boundary;*
- 3) demolition of existing entrance ramp and canopy on front elevation to Merchant's Quay to provide a new single storey enclosed ramp entrance (c.24.7m²) and new entrance doors;*
- 4) the provision of a Medically Supervised Injecting Facility (MSIF) at existing vacant basement level (c.387m² GFA). The MSIF will be accessed via refurbished and covered passage from new gate at ground floor level on western elevation and will comprise an assessment/intake area, staff space, clinical area (comprising 7 no.*

injecting booths), after care area, ancillary bathrooms, plant space and circulation areas;

5) demolition of existing water tank at roof level and redundant chimney and gas skid enclosure at western boundary;

6) new backlit stainless steel signage (c.5m²) on northern & eastern elevation, replacement glazing and general upgrade of materials/finishes on all elevations.

Our concerns relate particularly to indent (4) above, namely the provision of a Medically Supervised Injecting Facility (MSIF).

Planning History

The building currently accommodates the Open Access Homeless and Drugs Service. There are two previous planning decisions of note.

Ref. 5850/07

Planning permission Ref. 5850/07 was granted in respect of the premises in 2008 for:

- Change of use from children's court to day-care centre for social services.
- Ground floor – change of use from courts to dining area.
- First floor – installation of new mezzanine floor for administration purposes.
- Minor alterations to exterior.

Ref. 0392/17

In 2017, The Temple Bar Company questioned the planning status of the proposed use as an SIF, per planning Ref. 0392/17, when we asked:

Whether the use of the premises of Merchants Quay Ireland at Riverbank Court, Merchants Quay Dublin 8, as a supervised injecting facility is or is not development and if it is development, whether it is exempted development.

The Council declared:

Having regard to: a. Sections 2,3,4,5 of the Planning and Development Act, 2000 (as amended), b. Article 10 of the Planning and Development Regulations 2001 (as amended) c. The planning history of the site, plan ref no. 5850/07 and ABP ref no. PL29S.228820). The Planning Authority determines that the development in question would be a material change of use. Accordingly, this change of use would constitute development under Section 3(1) of the Planning and Development Act, 2000 (as

amended) which is not exempted development either under this Act or the Planning and Development Regulations, 2001 (as amended).

Main Points of Concern

The introduction of the concept of a “*supervised injecting facility*” (SIF), by way of the Misuse of Drugs (Supervised Injecting Facilities) Act 2017, marks a profound departure in Irish law in the way the use of illegal drugs is treated. For the first time, a law has been enacted whereby the consumption of illegally obtained drugs is to be facilitated by the State. This is the first time an agency of the State has actively sought to accommodate such an activity. This change in the law was put through the Oireachtas with very little public debate in relation to the effect on the lives of the non-drug using population.

The impact of the SIF model on planning and development has not been tested in Ireland. The concept of an SIF figures nowhere in planning law nor in the Dublin City Development Plan or any other development plan.

The first SIF has now been brought forward for a city centre already overburdened with numerous drug treatment facilities. The negative impact of the proposed SIF on this part of the city has not been given adequate consideration, including in relation to the location in close proximity to a large national school (St. Audeon’s).

Planning and Development

The concept of “*proper planning and sustainable development*” underlies Irish planning law and practice, including area-based development plans, such as the Dublin City Development Plan, 2016-2022. It might be thought of as ensuring that developments are located in their proper place. We consider that little consideration has been given to this concept by the bodies promulgating the proposed SIF.

We consider that the proposed development of an SIF at this location would be contrary to the proper planning and sustainable development of the area in the vicinity of Merchant’s Quay. The reasons for this are set out below, but are essentially due to:

- the overconcentration of drug related facilities in the city centre and
- the attraction of undesirable and criminal behaviour to the environs of the proposed SIF.

Locational criteria

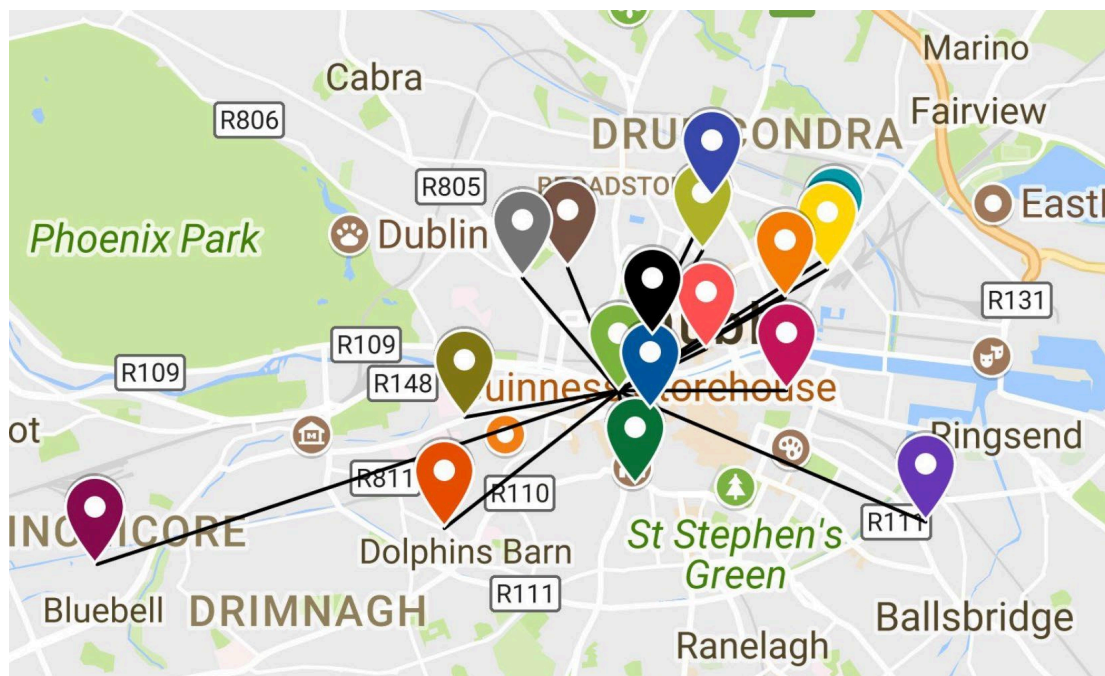
The main criteria for location of the SIF, as set out in the applicant's Planning Report, are those given by the HSE in a tender document. We consider that these criteria are entirely focussed on assumed needs of the clients (drug addicted persons) to the detriment of the wider community. The main locational criterion apparently was to put this SIF in the City Centre, where other people are living, working, visiting or attending educational establishments. There was no statistical case made for this choice and no meaningful consultation with the public. The impacts on the wider community seem to have been given only cursory consideration. There was an assumption that this city centre location is the best place to locate the SIF, with little evidence of proper analysis, statistical or otherwise. Indeed, it appears that the prior existence of the MQI centre may have been the principal impetus behind the decision to locate the SIF at this location.

Overconcentration of drug related services

The Planning Report submitted with the application addresses concerns regarding an overconcentration of drug related services in the area, by looking only at a radius of 500m from Merchant's Quay and identifying only services for the homeless. The narrowness of the study area and the exclusion of drug treatment centres in the city renders this assessment of very limited value.

In the inner City there is already an overconcentration of drug treatment facilities, as illustrated on the map below (a full list of the centres shown is attached to this letter). The proposed SIF will further continue and intensify this trend. By concentrating facilities such as needle exchanges and methadone clinics in the city centre, there is also a related attraction of drug related activity. This is not a healthy situation, given the existing concentration of deprivation in parts of the city centre. It is also detrimental to the material well being of the city, including residential amenity, the conduct of business and tourism. The result of the SIF programme will

be to further intensify the role of the centre of our capital city as the main drug scene in Ireland, with its attendant disorder and crime. A foretaste of this can be readily gained by a brief walk down the fine boardwalk on the Liffey quays.



Drug Related Services in Dublin City (see appendix for detail)

Community Implications

The proposed MQI SIF would be the first of its type in Ireland. The documentation submitted with the application encompasses most aspects of the management of the proposed SIF. But the biggest concern with the proposal is the impact on the wider area outside the four walls of the MQI property. As now proposed, the clients of the SIF must obtain their own drugs. Much of this activity, together with the related fund raising, is likely to occur within the environs of the SIF, because the Gardai will be obliged to turn a blind eye to possession of drugs within the vicinity of the SIF. There is already ample evidence that drug dealing and associated criminality is an issue in the vicinity of SIFs.¹

We note the comment in the MQI Operations Plan to the effect that SIFs do not result in higher rates of local drug-related crime (p.7). There are studies apparently showing such, but the reliability of some of these studies has been severely criticised.² Very stark criticism is

¹ *Evaluation der Arbeit der Drogenkonsumräume in der Bundesrepublik Deutschland*, Sebastian Poschadel et al, Zeus GmbH, Bochum, 2002.

² *A critical Evaluation of the Effects of Safe Injection Facilities*, Dr. Garth Davies in *The Journal of Global Drug Policy and Practice*, 2007.

contained in the evidence given by the President of the Ottawa Police Association, Mr. Skof, to the Standing Committee on Public Safety and National Security of the House of Commons of Canada, on 29th October 2014.³ In his testimony, Mr. Skof stated:

“At the heart of this discussion, though, is the fundamental question “Where will supervised sites be located?” Based on my experience, this question is often reframed to be “Which neighbourhood will be sacrificed?” This is given the fact that several square blocks are allocated to the transporting of illegal narcotics that are consumed at the supervised injection sites.....

Police encounter a number of issues in the areas allocated to supervised sites. Most concerning is that there will be a boundary in which the possession of illegal drugs will be tolerated. This area will become known to drug users and traffickers within hours of its creation. In creating injection sites, we create concentrated trafficking zones. Traffickers will carry only enough drugs to make small but frequent transactions. If stopped by the police, these traffickers will claim immunity, relying on the presumption of innocent possession within a known boundary around the supervised injection site.....

I have no reservations in telling this committee, based on my policing experience, that locating a supervised injection site brings an increase in crime. These crimes extend well beyond consuming drugs in a supervised location. Individuals who purchase drugs in these areas often walk away from the supervised location to shoot up in alleyways, stairwells, and parking lots within the local community.”

This evidence was supported by the President of the Toronto Police Association, Mr. Michael McCormack, including remarks to the effect that

“The goal in policing is to improve the quality of life in the community by reducing crime and disorder and the fear of crime and disorder, and enhancing public safety, which is something that we do in the policing community. We believe supervised injection sites contribute to social and economic deterioration and further victimization where they are located. They do little to achieve our goal in policing, which is public safety..... When we talked about

³ Standing Committee on Public Safety and National Security of the House of Commons of Canada, Meeting No.35, 29th October 2014

where we go, when we looked at all the anecdotal and other evidence around safe injection sites, and when we reviewed the evaluations of these sites, we were very critical of their methodology and the findings. We found that the public safety issues have been downplayed or not considered, or even poorly measured in a lot of this research.”

In Canada, a revision to the law was subsequently introduced, in 2015, to attempt to control the negative impacts of injection facilities.⁴

The Planning Report submitted with the planning application for the SIF states that the applicants employ a community engagement team of seven persons. But, the valid concerns in relation to the proposed SIF include issues of criminality in the environs of the SIF, which need a policing response. This aspect was also emphasised in pre-application consultations with the City Council (per record of same), but has not been adequately addressed in the application. Employment of security personnel at the premises will have little or no impact on deterring criminal elements congregating in the vicinity of the proposed SIF. Indeed, enforcement of the house rules set out in the documentation, whereby unruly persons will be refused admission to the SIF, will likely lead to displacement of anti-social behaviour and criminality into the surrounding area. We note that increasing violence among drug addicted persons is a significant concern, particularly due to use of crack cocaine and alcohol.

It is clear that policing of the SIF and environs must be systematic and focused. But policing in Dublin is very under-resourced. In the ten years from 2007 to 2017, due to the overall economic crisis in Ireland, the number of Gardai in Dublin fell by 800 approximately. There has been some increase in the last year, but the number of people living or working in or visiting Dublin has grown considerably in the same period. It is not clear what long term and permanent commitment can be made by the Gardai to policing the environs of the SIF. Neither the legislation nor the HSE model sets out a convincing structure for this.

Given the foregoing, we are most surprised that the authorities would consider imposing this type of facility on a neighbourhood in which a large primary school (a Deis school) is located in close proximity to the site of the SIF. Children coming from or going to school are likely to receive an unplanned and unwelcome education in the world of narcotics. We also note the

⁴ *Respect for Communities Act, 2015: An Act to amend the Controlled Drugs and Substances Act*, Government of Canada, Justice Laws Website (https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2015_22/page-1.html#h-2)

school has two classes for autistic children. The City Council will also be aware that the area in the vicinity of Merchant's Quay is much traversed by large numbers of tourists.

Decision of the City Council

The Misuse of Drugs (Supervised Injecting Facilities) Act 2017, has introduced a new use of premises into law, namely a "supervised injecting facility". This is defined at Section 1 of the Act as:

"supervised injecting facility" means a facility operated by a licence holder where authorised users may consume drugs by injection.

There is no provision in planning law for such use. Neither is there any use class set out in the current Dublin City Development Plan, 2016-2022, under which the application may be included. The applicant's Planning Report asserts that the proposed development is open for consideration under Zoning Objective Z5.

However, the SIF is not comparable with the other services available in the MQI on other floors, including needle exchange. The SIF is simply aimed at facilitating the injection of illegal and deadly substances into human beings. Contrary to the assertion of the applicant's planning consultants, the SIF is not a use coming within the Development Plan classification of "buildings for the health, safety and welfare of the public, community facility, medical and related consultants, public service installation." Therefore, the proposed basement level SIF constitutes a material contravention of the Development Plan.

Conclusion

The applicant's Planning Report outlines the three main aspects of the development and the three client groups at which these are aimed. Our objection is to the proposed SIF and we would not object to a decision to grant planning permission for the rest of the development at MQI, which excluded the SIF.

We urge the Council to remedy this very questionable proposal and to refuse permission for the proposed SIF primarily because of the highly negative impact it would have on the community in the environs and on this part of the centre of Dublin, the overconcentration of drug related services in the city centre and because it materially contravenes the Development Plan.

We enclose fee of €20.

Yours faithfully

Martin Harte
CEO Temple Bar Company

Donal O Keefe CEO LVA

Adrian Cummins CEO, Restaurant Association of Ireland

Encl: Map Drug Treatment Centres Dublin