



An
Bord
Pleanála

Inspector's Report 306001-19

Development	Change of use of vacant unit to restaurant with ancillary takeaway
Location	Unit 2C, Block C, Bettystown Town Centre, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	LB191205
Applicant(s)	Wow Pizza Company Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Lorna Walsh
Observer(s)	None
Date of Site Inspection	19 th January 2020
Inspector	Joanna Kelly

1.0 Site Location and Description

- 1.1. The appeal site is located within the new town centre of Bettystown in the townland of Betaghstown, along the R-150 in Co. Meath. Bettystown is a coastal town along the north-east of Meath. The development within which the site is located forms part of a new town centre which was developed c. 15 years ago and is approximately 400m west of the coast-line. There are numerous coffee shops/restaurants and take-aways located closer to the junction of the R-150 and R-151 immediately adjacent the main access point to the beach.
- 1.2. The existing unit is currently vacant. The part 3 and 4 storey block contain retail/commercial units at ground floor, the majority of which are vacant and residential units over head. The existing retail unit has a floor area of 111sq.m.
- 1.3. Pursuant to inspection of the general area of the appeal site, I noted that there is a significantly high vacancy rate in the town centre. The 'Tesco' store is located to the southern side of the adjoining block. I also observed two other vacant units with site notices seeking a change of use to restaurant and coffee shop. These units are also located within Block C.

2.0 Proposed Development

The proposal is for the change of use from vacant unit to restaurant with ancillary takeaway with internal seating of 32 seats.

The floor area of the unit is 111sq.m. The seating area is located to the front of the retail unit with the service area located behind.

The proposal also provides for amendments to the exterior to include new double door opening and signage to the front elevation.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted permission for the proposal subject to 13 no. conditions. Of note condition 4 requires the amendments in relation to the proposed entrance.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report outlines the provisions of the CDP and LAP in respect of the site, planning history, internal reports. The report notes that the principle of the use is acceptable on the site. The signage however is not acceptable. It was considered reasonable to condition opening hours given the residential amenities of the area. With regard to car-parking, the planner states that there are adequate parking spaces immediately adjoining the site to absorb the proposal. Change of use is exempted from development contributions. It was recommended that permission be granted subject to conditions.

3.2.2. Other Technical Reports

Transportation

No objection

Water services planning report 11/10/2019

Recommends condition regarding compliance with the Greater Dublin Strategic Drainage Study Regional Drainage Policies Volume 2 for new Developments.

Irish Water

No objection

HSE

No proposals regarding ventilation has been submitted. Applicant should consult with the local EHO when plans for kitchen has been finalised.

Fire Officer

A Fire Safety Certificate is required.

4.0 Planning History

There is extensive planning history associated with the overall lands forming part of the town centre lands. The more relevant in terms of establishing the permitted block C is as follows:

It would appear that SA/20192 was the parent permission which was granted on appeal (PL.202898) in 2003 for a mixed-use development on a 6.16ha site to the south of the Eastham Road, bounded to the east by Anchorage development, immediately west of Bettystown in the townland of Betaghstown comprising 177 residential units, 82 bedroom hotel, office space (2,722sq.m.), betting office, licenced premises, 2 no. restaurants, crèche and community facilities in 11 buildings around a central pedestrianised plaza.

File Ref. SA/40285 Permission granted in 2004 for amendment approved under File Ref. No. SA/20192 comprising minor changes to elevations, roof design and footprints of Blocks C and D and redesign of internal floor areas.

The planner's report notes that there is no history with the subject unit.

5.0 Policy and Context

5.1. Development Plan

The East Meath Local Area Plan is the statutory plan for the area. The site is zoned 'B1 town centre' with the zoning objective "to protect, provide for and/or improve town and village centre facilities and uses".

The appeal site is located within the area identified in the LAP as being within the core retail area.

The LAP provides that the Planning Authority will encourage the appropriate redevelopment of vacant and underutilised sites within the Bettystown Town Centre

site and centrally located sites in Laytown, Mornington East and Donacarney which are appropriate to the rank, role and function of each centre.

5.2. Natural Heritage Designations

The site is not located within any designated natural heritage area however it is approximately 350m west of the Boyne Coast and Estuary, a proposed Natural Heritage Area.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The salient planning grounds of appeal are summarised as follows:

- Concerns about parking outside of the Block as the car park cannot sustain additional cars.
- Parking is already at capacity in the evenings and at the weekends.
- Concerns regarding noise from customers, cars and deliveries.
- Condition 5 in respect of noise does not refer to noise from cars.
- Proposal is directly below existing residential apartments.
- Reports have been made to the local Gardai by the residents of the apartments regarding anti-social behaviour of young groups and the proposal will make the situation worse.
- Littering is also a concern particularly with the take-away element. There are no bins in the immediate area of the unit.

- The proposal and its location in Block C is unsuitable due to its close proximity to the residential apartments.
- There are other units in the same block and in other blocks that are not directly attached to any of the apartments.
- There are already 3 chinese takeaways, a pizza takeaway, 2 chip take-aways and hot food takeaway counters at the Centra and Tesco in Bettystown. I believe there is no need for another take-away in this small town.

6.2. Applicant Response

The salient points of the submission are summarised as follows:

- Applicant currently operates another 'Apache' pizza business in Drogheda which has been in operation for over 5 years and there have been no issues with littering, anti-social behaviour or other matters injurious to residential' amenity.
- The opening hours will be until 2200 hours Monday to Sunday as per Condition 6.
- The Drogheda operation has 75% of its take-away orders placed on-line or by phone and food is delivered to customer and is expected to be similar in this instance.
- The proposal will attract business from passing local residents.
- Noise, odour and light pollution are covered in the conditions of planning.
- Applicant's intention to be good neighbours with the existing local residents.
- Request the Board uphold the decision to grant permission.

6.3. **Planning Authority Response**

- The Planning Authority has reviewed the issues raised by the third party as outlined in Section 5 of the planning appeal form and is satisfied that these issues have been addressed in the planning report 31/10/19.
- The planning authority position remains that as set out in the report that the proposal should be granted.

7.0 **Assessment**

7.1. From my review of the file, all relevant documents, an inspection of the site and its environs, I consider that the main planning issues for consideration in the Board's de novo assessment of the appeal may be considered under the following broad headings:

- Principle of development
- Impact on existing residential amenities
- Signage
- Other Matters
- Appropriate Assessment

7.2 **Principle of development**

7.2.1 Having regard to the location of the appeal site on lands zoned 'B1 Town Centre – to protect, provide for and/or improve town and village centre facilities and uses' the proposal for a restaurant with a take-away element is acceptable. I note the reference to the existing quantum of similar businesses in the immediate area, however, Bettystown is a coastal town with a high number of tourists/visitors and such uses are typical. The existing concentration of such uses referred to in the appeal are located closer to the junction of the R-150 and R-151. Furthermore, the Block within which the unit is located suffers from a high vacancy rate, a fact which

the LAP acknowledges. It is therefore considered that the proposal for a restaurant with take-away element is to be welcomed.

7.3 Impact on existing residential amenities

- 7.3.1 Concerns have been raised regarding the impact the proposed use will have on the existing residential amenities. These concerns are reasonable given that there are residential units located over the existing unit. However, as stated these are identified as town centre lands where uses such as restaurant and take-aways are permitted in principle. Notwithstanding this, a balance is required, allowing for town centre uses while protecting residential amenity. The Planning Authority conditioned that the development shall not be open to customers outside the hours of 0800 to 2200 hours Monday to Sunday and 1000 and 2200 Sundays, Bank and Public Holidays unless authorised by a separate grant of permission. I consider this condition reasonable.
- 7.3.2 With regard to noise from people, cars and deliveries, I do not consider that the noise emissions from the operation of the unit as a restaurant/take-away is such that would give rise to excessive noise. Regard also has to be given to the permitted nature of the development i.e. retail units with residential over and that noise within an urban area is inevitable. There are many instances where the use proposed successfully operate in similar type developments i.e. mixed-use blocks with residential over in town centres.
- 7.3.3. I note the reference in the grounds of appeal to inadequate parking. However, at time of inspection (weekend) there was adequate parking available. Furthermore, as noted by the applicant, a delivery service will be available thus reducing the need for any additional parking. The planning authority was satisfied that there were sufficient car parking spaces immediately adjoining the site to absorb the proposal.
- 7.3.4 With regard to littering, I note that the proposal provides a seating area and as such should not give rise to concerns for littering. I accept that a take-away can give rise to littering, however, I note that the planning authority did not condition a bin be provided in the vicinity of the retail unit. The nature of the take-away is not such that I would consider requires the provision of a bin outside the unit and in any event, I am

not convinced that the applicant has sufficient legal interest on the lands outside of the Unit to provide the bin. Furthermore, the provision of a bin along the frontage of the unit will also reduce the width of the footpath.

7.4 Signage

- 7.4.1 I note that the planning authority in their report indicates that the proposed signage is not acceptable. No detail is provided as to why it is unacceptable. Condition 7 requires that precise details of all advertising signage, including colour and finish and the level of illumination (lux) of the signage if any shall be agreed in writing with the planning authority. I note signage details submitted with the documentation on file and the main signage over the shop front which is to be maintained is to consist of individual lettering face fixed to stone work. I have no objection to this proposal and consider that the final colour etc. can be agreed with the planning authority. I note that the details submitted in Drawing No. 2-2-00 indicates the extent of signage proposed which I consider is generally of sympathetic proportions to the shop front.
- 7.4.2 A photo has been included on Drawing No. 2-2-00 which would appear to be of the permitted 'Apache' unit in Temple Bar. I would caution that the photo does not correlate with the proposed signage indicated over the shop front subject to this appeal as it does not consist of raised lettering as indicated on the details submitted. I consider that the 'branded' signage as indicated on the photo is not acceptable and would render the shop unit inconsistent with the established shop fronts along these blocks.

7.5 Other Matters

7.5.1 Condition controlling proposed use

I note that the planning authority included the following condition in the grant of permission

Condition 3 The development hereby permitted shall be used solely as a coffee shop/café/restaurant/bistro and for no other class of use within Part 4 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). For the avoidance of doubt this permission does not include a use for the sale of hot food for consumption off the premises other than as ancillary to the principle use.

Reason: In the interests of residential amenity.

The subject site is located on town centre lands and the applicant is expressly seeking a restaurant with an ancillary take-away in the public notices. I do not therefore consider it appropriate or necessary to provide this condition. The condition in respect of opening hours is reasonable to protect residential amenity.

7.5.2 With regard to ventilation, I note that no details of same have been provided. It is considered that the ventilation due to the configuration of the unit needs to be carefully considered to avoid any potential impact on the residential properties overhead. Further, any extraction units/vents to be fixed to the front of the shop front will have a visual impact. I note that the planning authority did not raise any concern and have not included a condition regarding additional fixtures. I consider that full details including elevational details should be submitted for agreement of the planning authority.

7.4 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. I recommend a **grant** of permission subject to the following conditions

9.0 Reasons and Considerations

Having regard to the land use zoning of the site in the current Development Plan for the area, the nature of the proposal for a change of use from retail unit to restaurant with ancillary take-away, and to the nature and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the

proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would comply with the provisions of the Development Plan and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be completed in accordance with the plans and particulars lodged with the application, 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.

Reason: In the interest of clarity.

2. Within three months of date of the grant of this permission, the developer shall submit to, and agree in writing with the planning authority, details of intended means of ventilation serving the unit. Details of the location and elevational plans of such fixtures where considered necessary should also be submitted.

Reason: In the interests of visual and residential amenity

3. The proposed shopfront shall be in accordance with the following requirements:-

(a) Signage to the shop front shall consist of individually mounted lettering fixed to stone work only as indicated on Drawing 2-2-00 unless otherwise agreed with the planning authority.

(b) no awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,

(c) external roller shutter shall not be erected. Any internal shutter shall be only of the perforated type, coloured to match the shopfront colour.

(d) no adhesive material shall be affixed to the windows or the shopfront

(e) internal menu signage shall be as indicated on Drawing No. 2-2-00

(f) the level of illumination (lux) of the signage, if any, shall be agreed with the planning authority prior to erecting signage.

Reason: In the interest of visual amenity and to protect residential amenities.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

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5. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

Joanna Kelly
Senior Planning Inspector

19th January 2020