



An
Bord
Pleanála

Inspector's Report ABP-306414 - 20

Development

The change of use and the amalgamation of the ground floor of unit C02 (previously approved for retail warehousing) with the existing, adjoining Dunnes Store Supermarket (occupying Units C03, C04 and C05) to create an enlarged supermarket.

Location

Units C02 – C05,
Beacon South Quarter,
Sandyford Business Estate,
Sandyford, D18.

Planning Authority

Dun Laoghaire - Rathdown County
Council.

Planning Authority Reg. Ref.

D19A/0788

Applicant(s)

Pathesa Limited

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Date of Site Inspection

3rd March 2020

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject site contains retail units located within the Beacon South Quarter, Sandyford, Co. Dublin. The retail element of this development consists of units flanking to the northwest, south west and south east, an area called 'The Courtyard'. To the north east is the Carmanhall Road. The Courtyard primarily consists of car surface car parking, underground car park access, lifts/ stairs and travellators and footpaths. The buildings here are multi-storey and there are residential units over the retail units.
- 1.2. Unit C02 and the adjoining C01 on the north western side of The Courtyard were vacant on the day of the site visit. Unit C02 has a stated floor area of 576 sq m. Units C03 to C05 are occupied by Dunnes Stores and are in use as a supermarket at ground floor level and for clothing and homeware sales at first floor level. Other units were selling furniture and sporting equipment within the retail element flanking The Courtyard.
- 1.3. The Beacon South Quarter is located to the north western side of Sandyford Business Park. The M50 is located to the south and the Luas Green Line is to the north. The western end of the business park is characterised by residential development and associated retail in the Beacon South Quarter. The business park accommodates a mix of commercial and enterprise uses.

2.0 Proposed Development

- 2.1. The development consists of:
 1. The amalgamation of the ground floor of Unit C02, which is currently vacant, with the adjoining Dunnes Stores supermarket. This supermarket comprises of Units C03 to C05.
 2. The change of use of Unit C02 from approved retail warehousing to supermarket use.
 3. The reconfiguration of the combined retail floor space and to include new fishmonger, butcher and coffee shop. An off license with a floor area of 150 sq m net is also included.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for a single reason as follows:

1. Having regard to

- the Retail Planning Guidelines (2012), the GDA Retail Strategy (2008-2016) and the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022, including the Sandyford Urban Framework Plan, specifically Section 2.4.2 (d);
- the proximity of the site to the Stillorgan District Centre and the availability of other convenience floorspace within and near the Sandyford Business District and
- the Planning Authority not being satisfied that the proposals would not lead to over-provision of retail facilities sufficient to undermine the viability of existing businesses in the area and vitality and viability of higher-order retail locations in the County.

The proposed development would therefore be inconsistent with the definition of Supermarket and is therefore contrary to CDP policies RET 1 Retail Planning Guidelines. The submitted RIA does not adequately demonstrate the proposals cater only for the employment population within the Sandyford Business District and the residential catchments within walking distance and that it will not have a negative impact on adjacent retail centres and would therefore be contrary to SUFP Objective MC2, Section 2.4.2(d) of the SUFP and CDP Specific Local Objective 120 as well as CDP policies RET 11 Additional Retail Floor Space and RET 12 Assessment of Retail Proposals and the proposals are therefore considered contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planning report reflects the decision to refuse permission for the reason outlined.

3.2.2. Other Technical Reports

Transportation Planning: No objection subject to conditions. These include the provision of a 'Workplace Travel Statement' within 6 months of occupation of the

development, an annual report for a period of 3 years is to be prepared by an appointed Workplace Travel Coordinator and details to be provided on the provision of bicycle facilities.

Municipal Services Department – Drainage Planning: No objection.

4.0 Planning History

P.A. Ref. D18A/0419 refers to a June 2018 decision to refuse permission for the amalgamation of Units C01 and C02 with the existing Dunnes Stores supermarket (Units C03 to C05) and for a reconfiguration of the floor area. A single reason for refusal was issued as follows:

'Having regard to (i) the Retail Planning Guidelines (2012), the GDA Retail Strategy (2008-2016) and the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022, including the Sandyford Urban Framework Plan; (ii) the proximity of the site to the Stillorgan District Centre and the availability of other convenience floorspace within and near the Sandyford Business District and (iv) the approach used to calculate the net retail floorspace proposed and enumerate the current convenience spend of local workers and project future convenience spend, as well as the characterisation of the proposals as minor, the Planning Authority is not satisfied that the proposals would not lead to over-provision of retail facilities sufficient to undermine the viability of existing businesses in the area and vitality and viability of higher-order retail locations in the County. The proposed development is considered inconsistent with the definition of Supermarket and is therefore contrary to CDP policies RET 1 Retail Planning Guidelines. The submitted RIA does not adequately demonstrate the proposals cater only for the employment population within the Sandyford Business District and the residential catchments within walking distance and that it will not have a negative impact on adjacent retail centres contrary to SUFP Objective MC2 and CDP Specific Local Objective 120 as well as CDP policies RET 11 Additional Retail Floor Space and RET 12 Assessment of Retail Proposals and the proposals are therefore considered contrary to the proper planning and sustainable development of the area'.

P.A. Ref. D04A/0618 refers to a November 2004 decision to grant permission for a mixed use development on a site of 5.23 hectares including retail, residential,

commercial and live-work accommodation. This refers to the parent application on this site.

P.A. Ref. D06A/0724 refers to a June 2006 decision to grant permission for revisions to the development as permitted under P.A. Ref. D04A/0618. Permission included change of use from warehouse retail to use for convenience, comparison and local/ neighbourhood shop. This included the units that make up the Dunnes Stores supermarket.

5.0 Policy and Context

5.1. Development Plan

5.1.1. Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the subject site is zoned MIC ‘To consolidate and complete the development of the mixed-use inner core to enhance and reinforce sustainable development’; this zoning only applies to the Sandyford Urban Framework Plan area only. Within this zoning, ‘Convenience (including supermarkets) and Comparison Shops’ are listed within the ‘Permitted in Principle’ Category subject to ‘Any retail development shall accord with the policy for retail within Mixed Use Core Areas as outlined in the Sandyford Urban Framework Plan’.

5.1.2. Chapter 3 of the development plan refers to ‘Enterprise and Employment Strategy’ and the following are relevant:

- Policy E9: Sandyford Business District – ‘It is Council Policy to implement the Urban Framework Plan for Sandyford’. The following is taken from the development plan:

‘The ‘Sandyford Business District’ refers to the combined Sandyford Business Estate, Central Park and the South County Business Park area. Since 2000, the area has experienced significant high density development, including residential development, as part of mixed-use schemes that also include comparison and convenience retail uses and other retail services such as banks, hair and beauty

salons, bookmakers and off-licences. In response to the changing nature of the Sandyford Business District and the fact that Census 2011 revealed that the resident population of the Business District is now almost 3,000 persons, it is considered appropriate to allow for continued development of residential uses and the associated uses required to serve this population in order to create a coherent urban form. However, it is also considered that the Sandyford Business District should remain the primary employment centre in Dun Laoghaire-Rathdown and, while the policies and objectives for the future development of Sandyford contained in the Urban Framework Plan allow for a mix of uses, the emphasis remains on promoting the area as a major employment node’.

Section 3.2 ‘Retail and Major Town Centres’.

- Policy RET1: Retail Planning Guidelines ‘It is the policy of the Council to have regard to the ‘Retail Planning Guidelines for Planning Authorities’ published by the Department of the Environment, Community and Local Government in 2012, in determining planning applications for retail development’.
- Policy RET2: Greater Dublin Area Retail Strategy ‘It is Council policy to have regard to the Retail Strategy for the Greater Dublin Area 2008 – 2016 but to adopt a cautionary position in relation to consideration of future retail floorspace requirements and objectives in light of changing economic circumstances’.
- Policy RET3: Retail Hierarchy ‘It is Council policy to have regard to the ‘GDA Retail Planning Strategy 2008 – 2016’ and the ‘GDA Regional Planning Guidelines 2010-2022’, in defining the retail hierarchy of the County and defining the role of the retail centres. It is Council policy to promote the viability and vitality of its existing main retail centres while continuing to protect and improve the amenity of surrounding areas’.

Also of relevance:

Neighbourhood Centres

'These centres usually contain one supermarket ranging in size from 1,000-2,500 sq.m. with a limited range of supporting shops and retail services and possibly other services such as post offices, community centres or health clinics grouped together to create a focus for the local population. These centres meet the local day-to-day needs of surrounding residents'.

- Policy RET7: Convenience Shops 'It is Council policy to facilitate the provision of local convenience shops in residential areas where there is a clear deficiency of retail provision, subject to protecting residential amenity'.
- Policy RET10: Retail Warehousing and Retail Parks. 'It is Council policy to strictly control and limit additional new retail warehousing/retail park floorspace in the County for the duration of the Plan'. MIC zoned lands are listed as suitable for retail warehousing development.
- Policy RET11: Additional Retail Floor Space 'It is Council policy, while having regard to the 'Retail Strategy for the Greater Dublin Area 2008 – 2016', to nevertheless adopt a cautionary position in relation to the provision of significant additional retail floorspace in the County for the duration of the Plan – in recognition of the dramatic slowdown in the economy resulting in lower than expected immigration levels and consequent lower growth in overall consumer expenditure'.
- Policy RET12: Assessment of Retail Proposals 'It is Council policy to ensure that applications for new retail development shall accord with the retail policies of the Development Plan and are objectively assessed as set out in Government Guidance in the form of the 'Retail Planning Guidelines' (2012)'.

5.1.3. Chapter 8 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 refers to 'Principles of Development'.

5.1.4. The Sandyford Urban Framework Plan (SUFPP) is included as Appendix 15 of the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022. The following are relevant to this development:

Objective MC1: 'It is an objective of the Council to require that a Retail Impact Assessment accompany all convenience and comparison retail development proposals in excess of 300sqm GFA'.

Objective MC2: 'It is an objective of the Council to require that all Retail Impact Assessments should demonstrate that the scale and nature of retail proposed caters only for the employment population within Sandyford Business District and the residential catchments within walking distance and that it will not have a negative impact on adjacent retail centres'.

Objective MC3: 'It is an objective of the Council to require all planning applications for proposed retail developments to identify the nature of the proposed use in order that the appropriateness of the use at that location can be determined'.

Section 2.4.2 (d) 'It is critical that retail in Sandyford is not of a scale that undermines the retail hierarchy of the Dun Laoghaire-Rathdown County Development Plan 2016-2022. Future convenience and comparison retailing (not including retail warehouses) should be of a limited scale so as not to attract 'retail only' journeys into the area in order to avoid competing with established District Centres and/or Major Town Centres elsewhere in the County. Future retail should be of a scale appropriate in a Neighbourhood Centre'.

Specific Local Objective 120 states: 'To facilitate the further development of Sandyford Business District in accordance with the policies and objectives of the Sandyford Urban Framework Plan'.

5.2. Regional Guidance

Full regard has been had to the following:

- Eastern Midland Region, Regional Spatial and Economic Strategy 2019 – 2031. This promotes the densification of employment in Sandyford.
- Retail Strategy for the Greater Dublin Area (2008 – 2016). Dublin City Centre is listed as the Level 1 Retail Centre for the region. Dun Laoghaire and Dundrum are the Level 2 Centres in the County with the Level 3 Centres including

Stillorgan, Blackrock, Cornelscourt, Nutgrove, Cherrywood. Sandyford is not referenced in this document.

5.3. National Guidance

Retail Planning Guidelines for Planning Authorities – Department of Environment, Community and Local Government (April, 2012). These guidelines are supported by the Retail Design Manual.

The Retail Planning Guidelines seek to ensure:

- Supporting competitiveness and choice in the retail sector, whilst using the sequential approach for retail development.
- Promote the vitality and viability of city and town centres.
- Recognise the importance of the sector for employment, economic activity and the vitality of Ireland's cities and towns.
- Promote the use of sustainable forms of transport.

5.4. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

The applicant has engaged the services of TBP Planning and Development Consultants to appeal the decision of Dun Laoghaire Rathdown County Council to refuse permission for this development.

The grounds of appeal can be summarised as follows:

- The proposal is for the amalgamation of a unit that has remained vacant since constructed, into the ground floor of the existing Dunnes Stores shop.
- No additional floor area by way of construction is proposed.
- The extra sales area will allow the business to adapt to changing customer demands – provision of fresh food sales and a coffee shop.

- The existing supermarket serves the local residential and working populations and is unlikely to impact on other retail centres outside of the local area.
- The net sales area allocated to food will be less than 2,500 sq m and therefore 'passes both the function and numerical scale tests'.

6.2. **Planning Authority Response**

6.2.1. The grounds of appeal do not raise any new matters, so no additional comment is made by the Planning Authority.

7.0 **Assessment**

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Principle of Development
- Impact on the Visual Amenity of the Area
- Acceptability of the Development
- Appropriate Assessment Screening

7.2. **Principle of Development**

7.2.1. The subject site is zoned 'MIC', Mixed Use Inner Core, and convenience and comparison retail development is permitted in principle subject to it complying with the retail requirements of the Sandyford Urban Framework Plan.

7.3. **Impact on the Visual Amenity of the Area**

7.3.1. The amalgamation of this unit into the existing Dunnes Stores will have a positive impact on the visual amenity of the area. This unit and the adjoining unit C01, were vacant/ empty on the day of the site visit and currently do not add to the vitality of this area.

7.3.2. There are no significant alterations proposed to the exterior/ façade of this unit, however I would consider that the use of the unit and the associated activity within if incorporated into the existing supermarket, will have a positive impact on the

streetscape, though a streetscape that is accepted as limited in quality. Any additional signage etc. should be agreed with the Planning Authority prior to the commencement of development, in the event that permission is to be granted.

7.4. Acceptability of the Development

- 7.4.1. I have noted the contents of the submitted appeal and the Planning Authority report/ decision. From reading the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 and the associated Sandyford Urban Framework Plan (SUFP), the status attached to Sandyford is clear, employment remains the primary development focus. As identified in the SUFP, a significant residential population has been accommodated within the area and associated services and retail development have been provided to serve this population, in addition to the working population of Sandyford.
- 7.4.2. The subject site has its own status as a centre within the Dun Laoghaire Rathdown County Development Plan and the adoption of the SUFP demonstrates this. As a retail centre, I would define/ equate it as a Neighbourhood Centre serving the local needs of the resident population. In addition, the retail provision within the SUFP area, is intended to serve the local working population. Neighbourhood Centres would contain one supermarket of between 1,000 and 2,500 sq m.
- 7.4.3. The existing retail unit has a given net Sales Area of 2,218 sq m and the proposed development would increase this to 2,474 sq m. This is clearly within the range for a Neighbourhood Centre. I note the existing and proposed floor areas as submitted. There does not appear to be an increase in the number of checkouts proposed, though there may be an increase in the number of self-service checkouts. This indicates that there is not expected to be a significant increase in the volume sales such as through weekly shopping etc. Much of the revised floor area provided by the amalgamation of Unit C02 with the existing supermarket, is taken up by the delicatessen, cheesemonger, fishmonger and butcher. These appear to have a separate branding to Dunnes Stores and as such have their own form of presentation/ display, which utilises additional floor area. The proposed coffee shop also utilises 116 sq m when including the seated area.
- 7.4.4. The development does not propose the construction of any additional floor area, just an increase in the supermarket floor area by the utilisation of a currently vacant unit.

The proposed development is considered to be acceptable in terms of being within the permitted floor area for a neighbourhood centre. I accept that clothing and homewares are also sold here, but these are on the floor above and probably operate independently of each other. I am not aware if the Planning Authority have had a concern about this issue up to now. The permitted uses within the Beacon South Quarter as originally permitted, focused on retail warehousing. This segment of the retail market appears to have declined in popularity with the growth of on-line shopping and the development of larger, specialist stand-alone retail warehousing developments such as The Park, Carrickmines.

- 7.4.5. The Planning Authority have identified the Aldi store on Blackthorn Avenue (230 m to the north east) with a floor area of 1,133 sq m and included it with the subject development and a total supermarket retail area of 3,607 sq m. I do not accept that it is appropriate to add up the floor area of sites that are clearly separated from each other. If they were within the same development/ locality, then that could be considered, however the separation in distance and convenience of access between the two ensures that they are not associated. I would suggest that the separation distance between the units does not allow for convenient single trip shopping. As noted by the Planning Authority, the Aldi store was considered within the discount retail category, a separate category to the convenience store category of the supermarket; the discount category has been removed and is now considered a convenience store.
- 7.4.6. I therefore am satisfied that the supermarket/ amalgamation of the adjoining unit should be considered on its own merits. The inclusion of retail units separate from the subject site would set a poor precedent for the assessment of retail/ commercial development throughout the county.
- 7.4.7. The Planning Authority are concerned that the development would have a negative impact on higher level retail centres with specific reference to the Stillorgan District Centre. I note that Stillorgan shopping centre has undergone a refurbishment in recent times, though retaining much of its original layout and surface car parking. A quick search on Google, indicates that Stillorgan provides for a significantly larger range of shops, services and restaurants than does the Beacon South Quarter. I do not foresee that the proposed development would result in significant loss of business from the higher-level district centre.

- 7.4.8. The Planning Authority were also concerned that the Retail Impact Statement does not adequately demonstrate that the proposal would cater only for the local working and residential populations within walking distance. From the site visit, it was apparent that significant development was underway on sites in the immediate area. Substantial residential development has been provided here in recent years in addition to increased employment generating developments. The expansion of the supermarket is in keeping with the ongoing development of the surrounding Sandyford area. Permitting the proposed development does not change the status of the retail provision on this site i.e. it does not elevate its status to a level 3 retail centre.
- 7.4.9. I note that Stillorgan district centre is approximately 1.5 km to the north of the subject site but through the topography and road/ footpath layout, it is unlikely that there would be many who would walk from Sandyford to Stillorgan to do their shopping. The proposed development providing for an increased retail offer, will encourage a greater amount of walking/ cycling from the local area to the Beacon South Quarter, than would be the case if the Stillorgan district centre was to be the retail focus for this area. The provision of local retail that is accessible to sustainable means of transport is in accordance with the Retail Planning Guidelines.
- 7.4.10. I do not foresee that the proposed development would have a negative impact on existing residential development in the area. The additional retail floor area is through the amalgamation of a unit, identified as suitable for retail warehousing, into the existing supermarket. The application does not propose any change to operating hours or to the general retail nature of the development.

7.5. Appropriate Assessment Screening

- 7.5.1. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted in accordance with the following conditions and reasons.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Retail Planning Guidelines 2012, the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022 and Appendix 15 – Sandyford Urban Framework Plan and the MIC zoning that applies to the site, to the location of the site within an established retail/ urban development and to the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the existing retail, residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 18th of October 2019, except as may otherwise be required in order to comply with the following conditions.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>This order shall not be construed as granting permission for any additional floor areas at “mezzanine level” within the buildings hereby permitted. No mezzanine floor development shall be carried out without a further grant of planning permission.</p> <p>Reason: In the interest of clarity and in order to permit the planning authority to assess the impact of any such increase in floorspace in the light of the retail policies of the current development plan for the area.</p>

3.	<p>Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p>Reason: In the interest of the amenities of the area/visual amenity.</p>
4.	<p>No external security shutters shall be erected on the commercial premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the Planning Authority. This shall provide for incentives to encourage the use of public transport, cycling and walking by visitors and staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the applicant/ developer of this retail development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.</p> <p>Reason: In the interest of encouraging the use of sustainable modes of transport.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional 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 developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
8.	<p>The developer shall pay to the planning authority a financial contribution in respect of ‘the extension of Luas Line B1 – Sandyford to Cherrywood’ in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the</p>

	Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.
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Paul O'Brien
Planning Inspector
3rd April 2020