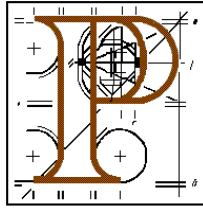


An Bord Pleanála



Inspector's Report

PL29N. 245611

DEVELOPMENT: Change of use from off-licence to take-away

ADDRESS: Unit 8, Coolock Village Centre, Dublin 5

PLANNING APPLICATION

Planning Authority: Dublin City Council

Planning Authority Reg. No.: 3270/15

Applicants: Florian Sala

Application Type: Permission

Planning Authority Decision: Refuse permission

APPEAL

Appellants: Florian Sala

Type of Appeal: 1st party vs. refusal

Observers:
1. Sai Ming and Yu Po Leung
2. William and Betty Boylan

DATE OF SITE INSPECTION: 11th January 2016

INSPECTOR: Stephen J. O'Sullivan

1.0 INTRODUCTION

- 1.1 This appeal deals with a first party appeal against a decision of Dublin City Council to refuse permission for a take-away.

2.0 SITE

- 2.1 The site is a unit at the end of a purpose built parade of shops called Coolock Village Centre which stands in the suburban neighbourhood centre of Coolock in north Dublin. It has a stated area of 105m². Parking for the shops is provided on the curtilage of the parade which has a single access point from Coolock village. The central part of the parade is a two-storey building with single storey units to the west including that on the appeal site. The site adjoins the curtilage of a semi-detached house to the west, No. 5 Beechpark Avenue.

3.0 PROPOSAL

- 3.1 It is proposed to use the unit for the sale of hot food to take away. The appeal states that it would be a traditional fish and chip shop.

4.0 POLICY

- 4.1 Under the Dublin City Development Plan 2011-2017, the site is zoned Z3 for neighbourhood facilities. Takeaways are open for consideration under this zoning. Section 17.26 of the plan refers to takeaways. It states an objective to avoid an excessive concentration of such uses and to control them having regard to various issues, including the effect on the amenities of nearby residents.

5.0 HISTORY

- 5.1 Reg. Ref. 3983/05 – the planning authority granted permission to extend the off-licence on the site and install signage

Reg. Ref. 2198/15 – the planning authority refused permission on 7th April 2015 to change the use of the adjoining unit No. 7 from a café to a takeaway. The reason for refusal stated that the proposed takeaway near other hot food operations would undermine the vitality and viability of the neighbourhood centre.

6.0 DECISION

- 6.1 The planning authority decided to refuse permission for following reason –

It is considered that the addition of a takeaway at this location in proximity to the existing provision of takeways and other hot food operations would undermine the vitality and viability of Coolock Village as a Neighbourhood

Centre as well as the amenities of the area contrary to the proper planning and sustainable development of the area.

7.0 REPORTS TO THE PLANNING AUTHORITY

- 7.1 Submissions – Several persons objected to the development due to the existing concentration of takeaways in Coolock Village and to the need for consistency with the previous refusal of permission for a takeaway in the unit next door. It was also stated that the proposal would exacerbate concerns about noise, disturbance and loitering in the vicinity of take-away, as well as those about traffic and parking.
- 7.2 Planner's report – It is preferable that the ground floor frontages of properties in neighbourhood centres are occupied by 'Class 1' type retail uses and similar services. Other uses may complement but should not over dominate. The development plan is clear on the need to control hot food uses. Takeaways are shuttered up for significant portions of the day. It was concluded during the consideration of the application on the adjoining unit No. 7 that there was already sufficient hot food uses in the area. No proposals have been submitted for ventilation but emissions would be subject to control by the EHO. It was recommended that permission be refused.

8.0 GROUNDS OF APPEAL

8.1 The grounds of appeal can be summarised as follows –

- There is no other takeaway in the Coolock Village Centre or Old Coolock Village. The Jazz Chinese Restaurant has not authorised take-away facility. The proposed development would provide a traditional fish and chip takeaway which would be an important retail service. It would add to the retail offer in the village and improve its vitality and viability. It would be similar to the established use of the site as an off licence in respect of hours of operation and the control of possible residential disamenity. Both are deemed to be open for consideration under the zoning objective which implies that similar appraisals of each would be the norm
- The Coolock Village Centre is located in old Coolock village, which is distinct from the new Coolock village to the south. There is no authorised takeaway among the 19 commercial premises at street level in the old village. Their combined floor area is 2,360m², compared to the 105m² that the proposed development would occupy. It is clear that it would neither affect the vitality and viability of the village or lead to a concentration of takeaway uses there. The proposed development would occupy only 12% of the floor area of the Village Centre. There is a greater concentration of takeaways in the new village c300m to the south of the appeal site, which occupy 3 of the 9 units and 16% of

the floorspace there. So another takeaway there might be construed as an over-concentration, but the same concerns would not apply to the appeal site.

- The proposed development would comply with the provisions of the development plan. It would provide an important part of the retail offer of the neighbourhood centre and would not affect its vitality or viability or lead to an over concentration of such uses. Conditions are suggested that would address the concerns of local objectors and mitigate any negative externalities.

9.0 RESPONSES

9.1 The planning authority did not respond to the appeal.

10.0 OBSERVATIONS

10.1 The observation from William and Betty Boylan states that they live at No. 5 Beechpark Avenue which adjoins the appeal site. The proposed development would give rise to odours, litter, noise and disturbance that would injure the amenities of their home.

10.2 The observation from Sai Ming Leung and Yu Po Leung stated that 9 of the 25 commercial premises in Coolock Village serve hot food. Another takeaway would unbalance the provision of services and retail facilities and would undermine the viability and vitality of the neighbourhood centre.

11.0 ASSESSMENT

11.1 I refer the board to the information submitted with the appeal regarding the number, size and current use of the commercial premises in Coolock village. After inspection of the site I would advise the board that this information is generally accurate, although I cannot vouch for the individual details set out therein. The argument in the appeal that there are two distinct commercial centres at Coolock is not accepted. While there is some housing between the shopping parade in which the site lies and the other parade at the southern end of the village, it does not divide the neighbourhood centre at Coolock either in terms of its character or function in the manner suggested by the applicant. The impact of the development on the village as a whole is what is relevant for the application of section 17.26 of the development plan.

11.2 However, even in this context the proposed development would not lead to an undue concentration of take-aways in Coolock. There are a significant number of commercial premises in the village. The demand for local class 1 shops would be met mostly by the two larger convenience shops at either end of the village. The demand to occupy the rest of the premises would be expected to be from service providers or niche retailers, or from cafés, restaurants or takeaways. The number of premises in the village would be adequate to

accommodate the range of such businesses that might be expected to be viable there. It is unlikely that the establishment of another takeaway would displace some other viable commercial operation, nor would it significantly affect the character of the village. The reason for refusal stated by the planning authority is not justified, therefore.

11.3 Nevertheless, this specific site is not appropriate for takeaway because it adjoins a residential property. Section 15.9 of the development plan sets out that the amenities of residentially zoned land needs to be protected when considering proposals for development on contiguous land that is zoned for other uses. A takeaway would give rise to a potential for nuisance arising from the fumes and odours, from litter and from noise and disturbance at night time which a shop would not. The established use of the premises as an off-licence would also attract custom in the evenings. However it would not give rise to a potential impact from odour and litter in the same manner as a takeaway. The licensing regime that applies to the sale of alcohol prevents loitering in the immediate vicinity of the off licence by customers to consume the items that they have just purchased. If such congregation occurs then its licence will not be renewed. This control does not apply to takeaways which would be more likely to lead to the congregation of persons at night, with the consequent risk of noise and disturbance to the neighbouring residents. The proposed development would therefore give rise to an appreciable threat to the amenity of the neighbouring house which the established use of the premises on the site does not. The objections to the development in the observation from the neighbouring house are therefore justified. There are numerous other commercial premises within the village that might accommodate a take-away. The proper planning of the area would direct such uses towards those other premises, rather than allowing it in a unit at the edge of the neighbourhood centre that abuts a house on residentially land zoned.

12.0 RECOMMENDATION

12.1 I recommend that permission be refused for the reason set out below

REASONS AND CONSIDERATIONS

The site adjoins the curtilage of a house and land zoned for residential use under objective Z1 of the Dublin City Development Plan 2011-2017. Section 15.9 of the plan specifies that it is necessary to avoid development that would be detrimental to the amenities of the more environmentally sensitive zone to which it would be contiguous. The proposed development of a takeaway on the site would give rise to a potential for litter, odours and for noise and disturbance in the evenings which the established use of the site would not. It would therefore tend to injure the amenities and depreciate the value of the adjoining residential property. As such it would be contrary to the provisions of the development plan and to the proper planning and sustainable development of the area.

Stephen J. O'Sullivan
12th January 2016