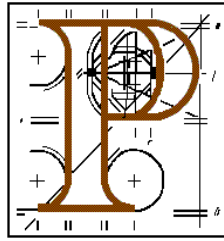


An Bord Pleanála



Inspector's Report

Development

Part change of use from a dry cleaners to a fast food take-away and dry cleaners at Retail 2, Block B, Ballymoss Road, Sandyford, Dublin 18.

Planning Application

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Authority Register Reference: D15A/0696

Applicant: Beacon's Dry Cleaners

Type of Application: Permission

Planning Authority Decision: Grant

Planning Appeal

Appellant(s): Sandyford Forum Management Company Ltd.

Type of Appeal: Third Party

Date of Site Inspection: 25th April, 2016

Inspector: Kevin Moore

1.0 APPLICATION DETAILS

- 1.1 There is a third party appeal by Sandyford Forum Management Company Ltd. against a decision by Dun Laoghaire-Rathdown County Council to grant permission to Beacon's Dry Cleaners for a part change of use from a dry cleaners to a fast food take-away and dry cleaners at Retail 2, Block B, Ballymoss Road, Sandyford, Dublin 18.
- 1.2 The proposal comprises the change of use of the front section of the existing ground floor dry cleaners to a take-away (approximately 35 square metres in area) and retaining the rear section as a dry cleaners (approximately 38 square metres of floor area). Separate access arrangements and signage provisions would be made. The development would be served by mains water supply and public sewerage facilities.
- 1.3 An objection to the proposal was received from Sandyford Forum Management Company relating to the functioning of the take away.
- 1.4 The reports received by the planning authority were as follows:

The Environmental Health Officer considered the proposal acceptable subject to the attachment of specified conditions.

The Drainage Engineer had no objection to the proposal.

Irish Water had no objection subject to conditions.

The Planner noted the third party observation that had been made, recent planning history, departmental reports received, and zoning and planning policy from the current Dún Laoghaire-Rathdown Development Plan. It was noted that a similar application was granted to the same applicant under D09A/0932 and that further information had been provided on several issues. It was considered that opening hours should be restricted to midnight as per the previous decision. It was submitted that the proposal would increase the variety of services at this location while retaining the existing use. It was submitted that there is not an excessive number of similar facilities in the area. The proposal was seen to be acceptable in principle. The issues raised in the third party submission were viewed as being ones that are not relevant to the planning code. It was considered that there had not been any change in Council policy since the making of the last decision. The proposal was seen as being

compliant with Council policy and a grant of permission was recommended.

- 1.5 On 8th January, 2016, Dún Laoghaire-Rathdown County Council decided to grant permission for the development subject to 5 conditions.

2.0 SITE DETAILS

2.1 Site Inspection

I inspected the appeal site on 25th April, 2016.

2.2 Site Location and Description

The existing commercial unit is located at ground floor level at the south-western end of a seven storey block. The block contains mainly commercial uses at ground floor level and apartments overhead. There is a café and shop at ground floor level within the same block to the north of the unit and a restaurant in the block immediately to the north of this block. The existing dry cleaning unit is functioning in the area proposed for such a use in this application. The area associated with the take away proposal is vacant.

2.3 Dun Laoghaire County Development Plan 2016-2022

The new County Development Plan was adopted by the Council on 17th February 2016.

The Sandyford Urban Framework Plan 2016-2022 forms Appendix 15 of the Plan. The site is in an area identified in this Plan as 'Zone 2: Mixed Use Outer Core' (MOC).

Objective MC 9 of the Plan states: "it is an objective of the Council to locate uses that enliven, and attract customers fronting the routes leading to the Luas, particularly along Ballymoss Road."

Zoning

The site is zoned Objective MOC: To provide for a mix of uses, which complements the Mixed Use Inner Core, but with less retail and residential and more emphasis on employment and services.

Fast Food Outlets / Takeaways (Section 8.2.6.5 of the County Plan)

The following criteria are to be taken into account in the assessment of development proposals for fast food/takeaway outlets:

- The need to retain, protect and strengthen the retail mix, overall variety and multi-use function of the area.
- The adequacy of existing facilities for the sale of hot food for consumption off the premises in the locality. In this regard, the applicant shall submit details of all existing fast food/takeaway outlets within the locality.
- The cumulative effect of the proposed development on the amenities of the area, particularly so in predominantly residential zoned locales.
- The effect of the proposed development on the existing mix of land uses and activities in the area.
- Careful consideration of the location of fast food outlets in the vicinity of schools and parks.
- Location of vents and other external services and their impact on adjoining amenities in terms of noise/smell/visual impact.
- Fast food outlets/takeaways with proposed drivethrough facilities will generally only be acceptable within Major Town Centres or District Centres and will be assessed on a case-by-case basis.

The proliferation or oversupply of certain premises that cause or are likely to cause disturbance or nuisance, detract from amenities or seriously detract from an area generally in terms of use and services mix may be resisted.

2.4 Planning History

P.A. Ref. D09A/0932

Permission was granted in March 2010 for part change of use from a dry cleaners to a fast food take away and dry cleaners.

3.0 THIRD PARTY APPEAL

3.1 The appellant states that it represents the residential and commercial business owners of the development known as Sandyford Forum. The grounds of the appeal may be summarised as follows:

- The development will adversely affect the residential amenity of the owners and occupiers of the existing residential units in the Sandyford Forum development, releasing emissions and odours through the building and causing nuisance, where no satisfactory provision has been made for extraction or ventilation.
- The Sandyford Forum development already houses a similar outlet with necessary extraction. To provide same for the proposal would require authorisations from the six apartment owners above.
- It will adversely affect visual and social amenity by adding to levels of litter and increasing noise levels, traffic and loitering.
- The proposal is situated in an area designated Objective MOC. It is retail based and is a material contravention of the zoning objective where there is a focus on less retail in the area. There is already a sufficient mix of retail food outlets in the area.
- The proposal will seriously injure and depreciate the value of the residential and commercial premises in the vicinity.

4.0 APPLICANT'S RESPONSE TO THE APPEAL

4.1 The applicant did not respond to the appeal submission.

5.0 PLANNING AUTHORITY'S RESPONSE TO APPEAL

5.1 The planning authority stated it had no further comment to make.

6.0 ASSESSMENT

6.1 The proposed development is similar in location, form, scale and function as that permitted under Planning Permission D09A/0932 in March 2010. The most relevant material change from the making of the last decision to grant permission relates to the adoption of new County Development Plans for the area, namely the Dún Laoghaire-Rathdown County Development Plans 2010-2016 and 2016-2022. The provisions of the former Plan were applicable at the time of the making of the Council's most recent decision. I note that the considerations of the new 2016-2022 Plan, adopted in February 2016, are those to which the Board would be required to have regard. It is further noted that the previous development permitted was subject to third party submissions which raised the range of issues now subject of this appeal. That previous development was permitted by the planning authority and was not subject to any appeal to the Board. It is considered appropriate to assess the current proposal against the requirements of the current development plan as follows:

The Sandyford Urban Framework Plan 2016-2022 comprises Appendix 15 of the Dún Laoghaire-Rathdown County Development Plan. Under this Plan the site is zoned Objective MOC, with the objective "To provide for a mix of uses, which complements the Mixed Use Inner Core, but with less retail and residential and more emphasis on employment and services."

I note the range of uses within this zone that are 'Permitted in Principle'. These include a local shop, a restaurant, and a tea room/café. A 'takeaway' use is not referenced as either being 'Permitted in Principle' or 'Open for Consideration'. I further note that that a 'takeaway' use is not referenced as either being 'Permitted in Principle' or 'Open for Consideration' within the land area zoned Mixed Use Inner Core (MIC) nor indeed within any of the other zones so identified in the Sandyford Urban Framework Plan. In the context of its mixed use setting and having regard to the lack of any express policy or objective to exclude such a use within the Sandyford Urban Framework Plan area, it would appear reasonable to firstly determine that the proposed use could not be seen to materially

contravene the Plan itself. I am of the view that it has not been deliberately left out of the zones for the entire Plan area for any obvious proper planning and sustainable development reasons. Accepting this consideration, it would appear reasonable to assess this proposal in the context of the provisions of the County Development Plan that relate to takeaways, namely the provisions of Section 8.2.6.5.

A first observation that must be made in relation to these provisions is that they are in many ways similar in form and intent to those under the two previous development plans, namely the Dún Laoghaire-Rathdown County Development Plans 2004-2010 and 2010 and 2016. My considerations on the specified criteria required to be taken into account when assessing such proposals are as follows:

- *The need to retain, protect and strengthen the retail, general variety and multi-use function of the area*

It is apparent that the proposal provides for the retention of the established use at this location. An additional commercial use is being added.

- *The adequacy of existing facilities for the sale of hot food for consumption off the premises in the locality. In this regard, the applicant shall submit details of all existing fast food/takeaway outlets within the locality.*

There are no such facilities in the immediate vicinity such that the proposal would represent an over-saturation of takeaway units in the area. In relation to the second element of this provision, the current application was submitted to the planning authority at the time when the 2010-2016 Plan was in place and did not require the submission of this detail. It is suffice to repeat that there is no oversupply of such facilities in this area.

- *The cumulative effect of the proposed development on the amenities of the area, particularly so in predominantly residential zoned locales.*

The development is sited at ground floor level of a seven storey block that has been laid out to provide a mix of commercial uses at this level with residential accommodation overhead. It could not reasonably be

seen to have any significant cumulative effect, notably where it is utilising established, dedicated commercial space.

- *The effect of the proposed development on the existing mix of land uses and activities in the area*
The effect is ultimately to diversify the range of commercial uses available at this location. By utilising established commercial space, it would not erode such uses and would add to the variety of food-related outlets in the area.
- *Careful consideration of the location of fast food outlets in the vicinity of schools and parks.*
The proposal does not have proximity concerns relating to schools and parks in the wider area.
- *Location of vents and other external services and their impact on adjoining amenities in terms of noise/smell/visual impact.*
The application provides details on provisions relating to the functioning of the takeaway and the infrastructure to be put in place. I note the reports of the Council's Environmental Health Officer and Drainage Engineer in response to the facility.. It is not considered that the proposal would have significant adverse impacts in terms of noise, smell or visual impact that would undermine the amenities of the area.
- *Fast food outlets/takeaways with proposed drivethrough facilities will generally only be acceptable within Major Town Centres or District Centres and will be assessed on a case-by-case basis.*
This provision is not applicable.

Finally, I note that the Plan states that the proliferation or oversupply of certain premises that cause or are likely to cause disturbance or nuisance, detract from amenities or seriously detract from an area generally in terms of use and services mix may be resisted. Given the limited extent of provision for the sale of hot food for consumption off the premises in this

area, it is reasonable to conclude that there would not be an oversupply of takeaway uses arising from this proposal proceeding.

In conclusion, it is considered the development would not significantly affect residential amenity, cause nuisance, or generate traffic concerns when regard is had to how the development is measured against the current Dún Laoghaire-Rathdown County Development Plan.

7.0 RECOMMENDATION

I recommend that permission is granted in accordance with the following:

Reasons and Considerations

Having regard to the zoning provisions for the Sandyford Urban Framework Plan as set out in the current Dún Laoghaire-Rathdown County Development Plan, the planning history of the site, to the established commercial use of the existing unit and to the range and extent of food outlets available in the area, it is considered that, subject to compliance with the conditions set out below, the proposed takeaway use would not be contrary to the zoning provisions for the area, would not seriously injure the residential or commercial amenities or depreciate the value of properties in the area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed takeaway shall operate between 1000 hours and 2400 hours only. No deliveries shall be taken at the premises outside of the hours 0700 and 1900 from Mondays to Saturdays, or at any time on Sundays, Bank or Public Holidays.

Reason: In the interest of residential amenity.

2. Details of the external shopfront finishes and signage shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

3. No other advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be erected or displayed on the building in such a manner as to be visible from outside the building unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

4. Water supply, drainage and the disposal of waste, inclusive of control of litter, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

Kevin Moore

Senior Planning Inspector

April, 2016.