



An
Bord
Pleanála

Inspector's Report PL.06S.246792

Development	Permission for four restaurants with drive-thru facilities, signage, 79 parking spaces, pedestrian canopy/pergola, vehicular entrance and associated site works.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD16A/0107
Applicant(s)	Regal Estates
Type of Application	Third Party v Grant
Planning Authority Decision	Grant permission
Appellant(s)	Frank Towey
Observer(s)	None
Date of Site Inspection	6 th September 2016
Inspector	Joanna Kelly

1.0 Site Location and Description

- 1.1. The appeal site with a stated site area of 0.6075 hectares is located adjacent to the Fonthill Road roundabout, accessed via the M4 Liffey Valley exit off the M50. The site is a greenfield site accessed from the roundabout on Shancastle Avenue via the existing estate road. The levels of the site whilst raised around the perimeter are otherwise generally relatively flat. There is currently a single access point into the appeal lands which is located opposite the Clarion hotel. The access road is a cul-de-sac serving a number of commercial businesses such as the Lemongrass restaurant, Boylesports, et al.
- 1.2. The area is urban in nature. The appeal site is bounded to the west by commercial restaurant uses including other ancillary services such as bookmaker's; to the north and east by a local road (estate road E) serving other commercial uses including motor vehicle showrooms; to the south by Shancastle Avenue, a distributor road. There is a park area south of this road which serves Shancastle estate. The Liffey Valley Shopping centre is located 400m east of the appeal site. There are retail parks located to the south-east of Liffey Shopping Centre.

2.0 Proposed Development

- 2.1. The applicant is seeking to construct four detached single storey restaurant/café units with drive thru facilities. A total of 87 surface parking spaces are indicated on the site layout plan and not 79 as indicated in the public notices.
- 2.2. The floor space of the structures are 298sq.m., 270sq.m., 185sq.m. and 195sq.m. respectively. The units are double height single storey commercial units with a drive through provided to each unit. There is a proposed pergola within the centre of the site to facilitate pedestrian movements.

3.0 **Planning Authority Decision**

3.1. **Decision**

The Planning Authority granted permission subject to 20 conditions as follows:

Condition 1	Compliance with plans and particulars
Condition 2	Parking and road arrangements
Condition 3	Landscaping
Condition 4	Signage details
Condition 5	Shuttering
Condition 6	Illumination and signage may be reviewed from time to time
Condition 7	No further structures to be erected without permission
Condition 8	Litter Walk Map to be submitted
Condition 9	Undergrounding of services
Condition 10-19	Drainage, utilities and environmental conditions
Condition 20	Development contribution

3.2. **Internal Planning Authority Technical Reports**

The **Planner's report** noted submissions in respect of the development which raised concerns about injury to residential amenities; use deviates from original envisaged use for this part of land; traffic. The proposal was considered acceptable from an urban design perspective and on traffic grounds and the planner recommended a grant of permission.

The **Landscape Architect** report recommends a condition to be attached to any grant of permission.

The **Roads Department** report indicates that the analysis submitted shows no significant and detrimental effect on the nearby junctions. No objections subject to conditions which includes the re-location of the proposed toucan crossing.

The **Environment, Water and Climate Change** section recommended conditions in the event of a grant of permission.

The **Water Services Planning report** indicates no objections subject to conditions.

The **Environmental Health Officer report** indicate that the proposal is not acceptable and additional information is required which may resolve concerns. Concerns raised include where food safety checks are to be carried out prior to acceptance to the food business. Specifications of ventilation and refrigeration units to be utilised required along with details of grease traps.

3.3. **Other Technical Reports**

Irish Water No objections subject to conditions

4.0 **Planning History**

No recent planning history with the appeal site

Immediate area the following applications are noted

File Ref. No. SD15A/0396 Permission **granted** for a motor trade outlet including a service workshop, motor showroom and offices on lands immediately to the east of the Clarian Hotel, opposite the appeal site.

File Ref. No. SD13A/0161 Permission **refused** for a drive-through restaurant in the Liffey Valley Shopping Centre.

File Ref. No. 12A/0226 Permission **granted** for an extension to the existing Liffey Valley Shopping Centre including six restaurants in a new building, and an extension to the existing cinema.

5.0 Policy Context

The **Regional Planning Guidelines for the Greater Dublin Area 2010-2022** sets out the vision for the GDA as being an economically vibrant, active and sustainable international Gateway Region, with strong connectivity across the GDA Region, nationally and worldwide.

The **Retail Strategy for the Greater Dublin Area 2008-2016** indicates that the Liffey Valley Shopping Centre is designated as a Level 2, Major Retail Centre located within the Metropolitan area. The Guidelines set out that it is very important that in order to achieve a sustainable and inclusive strategy such centres offer the widest access to shopping activities for the greatest number of people. The Strategy sets out Council specific recommendations, the relevant one is as follows:

“to facilitate the continuing development of the Liffey Valley Centre at Quarryvale as the second major town centre in the County by upgrading the urban form of the town centre area to provide for the development of new streets and civic spaces, and a range of people intensive uses appropriate to a major town centre based on high quality urban design. Part of this will facilitate the continuation of a strong retailing sector in this centre to meet the needs of its catchment within South Dublin and support the future vitality and viability of the centre.”(my emphasis)

The **South Dublin County Development Plan** is the statutory development plan which came into effect June 2016.

The appeal site has a land-use zoning objective “*MRC- Major Retail Centre – to protect, improve and provide for the future development of a major retail centre*”.

Section 6.2.0 of the development plan provides a policy to support the delivery of the Luas to Lucan, linking Liffey Valley and the City Centre. It is policy to maintain the reservation, identified by the RPA along the emerging preferred route which is indicated as straddling the southern boundary of the appeal site.

Section 11.3.6 of the plan refers to fast food/take away outlets an extract of which is enclosed for ease of reference.

The **Liffey Valley Town Centre Local Area Plan**, adopted in 2008 has been extended up to 2018. There is a policy objective contained in section 5.6.2 of the recently adopted development plan to prepare a new local area plan. The vision statement is as follows:

“to facilitate the development of Liffey Valley as a vibrant and sustainable Town Centre and a place where the whole community can avail of the highest standards of employment, services and amenities. To ensure that Liffey Valley is characterised by an attractive built environment, good connections and accessibility, and that Liffey Valley is a place where people choose to be and can be proud of”.

One of the Local Area Plan objectives is to promote an urban form by applying the principles of good urban design, providing key frontages, integrated streets, squares and parks and an appropriate range of people intensive day and night time uses.

The appeal site is identified in the LAP as “future potential”/long term vision – Future Town Centre Development Areas. I note that the lands immediately adjacent to the Clarion are identified as a residential core in the LAP. It is

noted that the appeal lands are located outside the three main development cores identified in the LAP.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The proposed scheme would generate a high number of vehicular movements and is an inappropriate form of development at this location which would constitute over development in terms of road safety and convenience.
- It is indicated that the four units are to be occupied by Costa, KFC, Burger King and Sbarro Pizza.
- With regard to the need for the development, it is submitted that there is an existing drive-through McDonalds to the rear of the main shopping centre, associated with a large retail warehousing development. Reference is made to the permission refused for a drive-through restaurant in the Liffey Valley Shopping Centre in 2013, the site being outside the identified three cores and as such would not assist in the generation of a critical mass in a core area.
- The concentration of four drive through restaurants in one cluster shows that this level of intensity is excessive in relation to the limited extent of the site and its location near a sensitive road junction. The need for overspill parking is likely to arise.
- A further indication of over-development of the site is given by scrutiny of the proposals for landscaping which appears optimistic given the limited space for planting. The boundary with the Arc Café bar is indicated to receive intense planting, including maple trees, but the space is not obviously available.

- Public policy is to reduce the need for frequent car borne movements but the planning application would create a destination in its own right. The site in reality is remote from the shopping centre and one would not readily undertake the journey on foot between the two points. The proposed drive-through would constitute an unwelcome addition to the already busy public road network in the area.
- Bothar na Life carries a large volume of traffic coming off or going toward the N4 national road. There are two critical junctions in the immediate vicinity on the main route to and from the site of the proposed development. At many times, the Bothar na Life and roundabouts are congested. At other times, under free-flow conditions traffic moves at considerable speed along the road.
- Whilst the roads department did not express concerns about the development the EHO expressed strong reservations on traffic related grounds.
- It is submitted that the proposed use is inappropriate in this strategic location remote from Liffey Valley shopping centre. It is submitted that the traffic impact assessment does not take sufficient account of the impact of four separate drive through restaurants on congestion at the roundabouts.
- It is set out that the likely route for the Luas to Lucan will run along Bothar na Life and no attention appears to have been given to this aspect. It seems inappropriate to place a generator of significant additional traffic volumes with insufficient space for vehicles on the site immediately beside the preferred emerging route for a high capacity light rail line.
- The Planning Authority did not address the concerns of the EHO but rather attached conditions to establish the relevant information after permission is granted.
- The analysis of traffic related issues on behalf of the applicant does not include for the development of the extensive vacant lands to the north and

north-east of the site which now carry Major retail Centre zoning. A simple annual growth factor does not adequately deal with the issue.

- A further omission is any modelling of the important roundabout at the junction of Bothar na Life with the Fonthill Road and St. Loman's Road which is the principal junction in the vicinity.
- A report prepared by a consultant is submitted by the appellant which examines the traffic related issues. The main finding is that the analysis carried out on behalf of the applicant has omitted to study the peak traffic times for the type of use proposed. The peak times for trip generation associated with the drive through facilities is the weekend but only information in respect of mid-week activity has been put forward.
- If the future development of the remaining undeveloped lands in the immediate vicinity within this part of the Liffey Valley MRC zoned area is factored in, the potential negative impact of the car-borne drive through development is magnified. By allowing a high trip generator at this location the planning authority has not implemented its own policy of maintaining the reservation along the emerging preferred route for the LUAS.
- Parking provision is unlikely to prove sufficient to serve four units during busy times. There will likely be an overspill onto the adjoining roads and nearby car parks. It is clear that there will significant accommodation for customers to sit down to eat. During weekdays people working in nearby businesses use 'The Arc' car park. At night time spill occurs into this car park thus it has become necessary to employ a dedicated parking management company to protect the parking facility for patrons of 'The Arc'. This problem will be intensified if the proposed restaurants are permitted.
- With regard to pedestrians it is set out that it is very likely children will be attracted from the area to the fast-food outlets now proposed. But crossing the road on foot is a hazardous exercise to the volume of traffic on the road. A

pedestrian crossing is proposed for Bothar na Life to facilitate pedestrians from the residential areas of Shancastle. It is submitted that it is most inappropriate to deliberately provide facilities to serve a residential area, where it is necessary to cross a major traffic route to reach such facilities.

- The development of the site would potentially compromise the future development of the large landbank to the north and north-east served by the Estate Road E.
- The existing buildings in the area are all of substantially greater scale than proposed under this application. They form the beginnings of a reasonable streetscape in the area with the Clarion Hotel particularly setting the benchmark in this respect. The proposal would contribute little to the streetscape and would detract from the setting of the existing buildings.
- The proposal is likely to have a detrimental impact on the amenity of existing developments at this location, particularly from increased litter, noise and disturbance.
- The Arc Bar Café property is currently separated from the site of the proposed drive through restaurants by a substantial earthen berm. This is not indicated on the plans submitted.
- The issue of odour and noise has not been addressed.
- Closing times should be imposed in respect of the proposed development.
- There are conditions which address issues which should have been more clearly addressed in the application and decision. In particular conditions 3,4,11,12(v), 13 and 14.
- It is requested that permission be refused.

6.2. Planning Authority Response

The planning authority confirms its decision. Issues raised have been covered in the planner's report.

6.3. First Party Response

The First Party has responded to the grounds of appeal as follows:

- It is submitted that the appeal is an attempt to restrict competition in the area.
- It is submitted that the reservation along the road in front of the application site running through the roundabout is of no relevance to this application. It is set out that the LUAS would not traverse the site but be routed on the wide carriageway at Bothar na Life.
- The appeal site is not a sensitive site, is bounded by roads and is therefore unlikely to have adverse impacts in the manner envisaged 11.3.6.
- With regard to need for the development, the applicant considers there is an opportunity to meet the shortfall of restaurants and drive through facilities in the wider area. The appellant has failed to demonstrate the relevance of the permission SD13A/0161 to this application. The constraints in that application do not exist in this case.
- With regard to intensity of development, it is proposed to locate all landscaping within the red line boundary.
- With regard to visual impact it is set out that the proposal is a well-designed and thought out proposal. The development as proposed would contribute to a significant visual improvement in this location which was accepted by the planning officer.
- With regard to closing time, there are no residential uses close by, and so there is no need for such a condition.

- A separate response prepared by TPS traffic consultants has been submitted to respond to the grounds of appeal. It is set out that TPS undertook a traffic count which showed that the flows, in the particular case of Liffey Valley on a weekend are in fact lower than a weekday. Therefore, the traffic assessment is robust in taking the higher weekday figure rather than the weekend figure shown.
- In relation to parking it is shown by the appellant that there is surplus parking available for 16 of the 19 hours of the day from 5am to midnight. This in itself is supportive of the argument that sufficient parking is provided.
- The response makes reference to the “retro-fitting” of pedestrian facilities in the immediate area. The application proposes a pedestrian crossing in the knowledge that an improvement is being constructed on Bothar na Life in front of the site. Such improvements when implemented will make cycling, and pedestrian movements in the area more realistic and feasible. In that context, there will be a degree of movement between the shopping centre and the residential estate to the site.
- It is most appropriate in planning terms to locate significant generators of activity alongside a high-capacity light-rail line.
- Additional traffic generated by the proposal has been shown to be less than 1% of the peak flows on Bothar na Life so there will be no impact on the level of service on this road. The roads department is the competent authority in relation to roads, traffic and engineering matters and they recommended a grant of permission.
- In recommending a grant of permission the planning authority would have had regard to new permitted developments served by the road network and improvements proposed in such developments.

- The proposed car parking provision exceeds the current development plan standard of 72 by 7 spaces.
- The planning authority has been provided with sufficient traffic assessment data upon which to determine the application.
- It is concluded that the proposal is consistent with the stated policy objectives and county development plan. The proposal will provide an amenity on a brownfield site. It will provide a visually attractive development which will contribute to the architectural quality of the area. It is requested that the Board grant permission.

6.4. Further Responses

Third Party response to first party appeal submission

The main points without re-iterating points already raised in the initial submission are summarised as follows:

- To permit the proposed development, primarily aimed at encouraging further car-borne business, would run contrary to the council's efforts to turn the Liffey Valley area into a "town centre".
- This type of development, aimed at motorists, would conflict with any attempt to make the general area more pedestrian friendly.
- The proposed development will remain a standalone generator of traffic on a site remote from the shopping centre.
- A further report has been commissioned from TPS Ltd. It is set out that the submission of a traffic count for Saturday sometime in June (no date given for this count) and its comparison with a traffic count from midweek December is wholly inappropriate.

- The response submitted on behalf of the applicant does not adequately address the concerns raised in the appeal grounds.

7.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of development
- Urban Design
- Traffic and Transport
- Appropriate Assessment

7.1 **Principle of development**

7.1.1 The site has a land-use zoning objective “*MRC- Major Retail Centre – to protect, improve and provide for the future development of a major retail centre*” as set out in the South Dublin County Development Plan 2016. As such the principle of restaurants/cafes are acceptable in principle. The site is located on lands which form part of the Liffey Valley Town Centre Local Area Plan 2008 which has been re-adopted. I note that the lands in question whilst forming part of the LAP lands were not assigned any particular use, but rather have been identified as “future potential”. Within this context, I would consider that any development at this location should have due regard to the overall objectives and vision for the Liffey Valley Area which is “*to facilitate the development of Liffey Valley as a vibrant and sustainable Town Centre and a place where the whole community can avail of the highest standards of employment, services and amenities. To ensure that Liffey Valley is characterised by an attractive built environment, good connections and accessibility, and that Liffey*”

*Valley is a place where people choose to be and can be proud of*¹ The principle of restaurant/take-away uses is therefore acceptable however the proposal should be assessed in the context of its contribution to achieving an attractive built environment with good connections and accessibility within this major retail centre.

7.2.0 Urban Design

- 7.2.1 One of the key objectives of the Local Area Plan is to develop Liffey Valley Town Centre *“as a medium to high density Town Centre with an upgraded urban form focused around a network of urban streets and squares, innovative buildings and people intensive land uses.”*² (my emphasis) The proposal in this instance is for four detached restaurants/cafes of single storey (with double height) design. The overall maximum height of one of the units is 6.3m which is relatively low in comparison to other permitted development in the locality. By comparison the Clarion hotel located immediately north of the site is a tall structure (approx. 5 stories) located along the N4 corridor within the ‘major retail centre’ zoning.
- 7.2.2 The appeal site is a prominent gateway site on approach to Liffey Valley Shopping Centre along Shancastle Avenue. Given the major retail centre zoning and proximity of the site to the shopping centre (approx. 300m) it is considered that development on this site should provide a strong urban streetscape of medium to high density as envisaged in the Local Area Plan. Whilst there are permitted developments such as The Arc Café, Boyle sports, which are relatively low in overall height, they do currently provide an urban edge at this gateway location. Further, it is only by permitting higher densities on lands zoned as major retail centre that people intensive land uses can be achieved as envisaged in the LAP. The achievement of critical mass ultimately contributes to more sustainable land-uses and travel patterns thereby helping to achieving a core policy in the Development Plan of sustainable long-term growth.

¹ Liffey Valley Local Area Plan, 2008 re-adopted 2014

² Ibid, p25

7.2.3 The proposed layout of the four detached units is generally typical of a retail park, dominated by car parking and circulation routes. The separation of the units combined with the provision of parking result in the loss of an opportunity at this location to articulate a sense of place by providing a strong urban form along a key public transport corridor as identified in the County Development Plan. Both the South Dublin Development Plan and the Local Area Plan seek to create a sustainable built environment. It is therefore considered that this greenfield site along a key transport corridor, within the area identified as 'major retail centre' in the LAP, should contribute to the creation of a strong retail centre through the creation of a streetscape and an upgraded urban form as envisaged in the LAP.

7.2.4 The supporting architectural statement with the application sets out that the design intention is to provide four units that engage both with the central shared plaza area of the site and also focuses outwardly towards the road network, thereby signalling their function. The landscaping plan submitted with the application clearly provides for the provision of hedging and trees along the road network. No site analysis has been submitted demonstrating how the proposed buildings represent the optimal layout in the context of achieving a high quality streetscape in this major town centre location.

7.2.5 Whilst I acknowledge that the lands to the east have been developed as a motor mall, I do consider that there is an opportunity to provide a higher density form of development with an emphasis on creating a strong urban edge that provides an aesthetically pleasing development at this location that would contribute to the overall built environment of Liffey Valley articulating its designation as a 'major retail centre' in the county development plan. The Local Area Plan identifies Shancastle Avenue as a Boulevard. The placement of any new buildings along this street should be carefully considered in the context of achieving the vision as set out in the LAP.

7.3.0 **Traffic and Transportation**

7.3.1 Planning Policy Context: The overarching transport and mobility objective of the County is to *“promote the sustainable development of the County through the creation of an integrated transport network that services the needs of communities and businesses”*. To realise this policy there is an action contained in the South Dublin County Development Plan to *“prepare a Local Access Study for the Liffey Valley Retail Centre that also incorporates the Palmerstown, North Clondalkin and South Lucan communities and that takes full account of the need to regulate motorised traffic within these communities relative to the Liffey Valley Retail Centre, no later than two years after the 2016-2022 County Development Plan is approved.”* There is also a policy to promote sustainable development of the county by supporting and guiding national agencies in delivering major improvements to the public transport network and to ensure existing and planned public transport services provide an attractive and convenient alternative to the car. In this regard there is an action to *“support the delivery of the Luas to Lucan (linking Lucan, Liffey Valley and the City Centre). To facilitate this service the reservation along the Emerging Preferred Route for the Lucan Luas, as identified by the Railway Procurement Agency will be maintained, subject to a future reassessment of all of the potential route options..”*

7.3.2 Traffic Impact Assessment: A TIA report was prepared by TPS limited and submitted with the application. The traffic surveys supporting the TIA were carried out on the 16th December 2015 between the hours of 0700 and 0930 hours and 1600 and 1930 hours. The applicant assumed the potential daily and peak hour trips associated with the gross floor area of the four drive-through. The results using TRICS indicate that the PM will be the busier period with 93 arrivals and 95 departures. The TIA provides for the application of traffic growth to a future year of 2022 and 2032 on the surrounding road network. Assessment of the capacity of critical road links and junctions were also undertaken. Based on the analysis undertaken by the applicant using the worst case scenario, it is considered that there is capacity in the existing road network to accommodate the proposed development. I note the concerns

raised by the appellant with regard to the time of year surveys were conducted, however, I consider that the time of year (run up to Christmas) was appropriate and would reflect higher than normal traffic volumes.

7.3.3 Parking: It is an objective of the LAP to provide a car parking system that promotes sustainable travel, while meeting needs of the Town Centre. The LAP sets out that the parking strategy will be based on a Mobility Management Plan and parking Management Plan for the site. With regard to the proposed development the four units have been positioned such that there is a circulation aisle around each unit so as to facilitate a drive through. Parking is provided to the northern and southern boundary and within the centre of the site. There is a total of 89 no. spaces provided. There is one no. parking space for persons with a disability provided for each unit. The total public floor space of the four units is 434sq.m. The Board should note that the documentation submitted refers to the provision of 79 spaces rather than the 89 which are clearly indicated on the site layout plans. Having regard to the standards provided for in the County Development Plan and the Liffey Valley LAP there is an over-provision of parking spaces.

7.3.4 Concluding comments: With regard to the appellant's argument that the proposal would be a destination in its own right, I do tend to concur with this. The proposal is a low rise development which is generally designed so as to attract customers by car. This is supported in the plans by the provision of a drive through to each of the four units and parking spaces over and above the standards set out in the development plan. The site while being 300m from the Liffey Valley Shopping Centre is considered such that customers would tend to drive rather than walk in particular during winter months. In the absence of a Local Access Study for Liffey Valley and indeed an overall Mobility Management Plan for Liffey Valley Town Centre lands, I consider that the proposal is premature and would compromise the delivery of coherent and planned extension of these lands zoned 'major retail centre'. The proposal fails to adequately address the identified 'preferred emerging route' for public transport and how this proposal would impact on the provision of a

streetscape that integrates with the transport route. I accept that the buildings would not encroach onto the reservation corridor. The creation of a strong streetscape along a public transport route should be carefully considered with a view to integrating civic spaces with pedestrian and transport permeability and legibility through such spaces.

7.4.0 Appropriate Assessment

7.4.1 Having regard to nature and scale of the proposed development on serviced lands, the nature of the receiving environment and proximity to the nearest European site (nearest Natura 2000 site being The Rye Water Valley/Carton SAC, located approx. 6.5m west of the appeal site as the crow flies), 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 that planning permission should be refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations/ Reasons

Having regard to the prominent location of the site along Shancastle Avenue on lands designated as “MRC- Major Retail Centre – to protect, improve and provide for the future development of a major retail centre” in the South Dublin County Development Plan 2016-2022, it is considered that the proposed development, consisting of four individual commercial structures, which are dominated by car parking, would represent under-utilisation of the site, would be visually unsatisfactory

and inappropriate in the context of its prominent location on one of the main approach roads to the Liffey Valley Shopping Centre.

There is an objective in the Liffey Valley Town Centre Local Area Plan to promote an urban form by applying the principles of good urban design, providing key frontages, integrated streets, squares and parks and an appropriate range of people intensive day and night time uses, the objective of which is considered reasonable. The proposed development by reason of inappropriate layout and form would result in poor frontage and a low density development which is highly car-dependent on “major retail centre” lands proximate to the preferred emerging route for future public transport modes.

The proposed development, if permitted, would have a significant adverse impact on the future achievement of a strong built environment and qualitative streetscape at this location, an important gateway and designated transport route into Liffey Valley Town Centre. The proposal would set an undesirable precedent for future haphazard low density development in the area and would therefore, be contrary to the proper planning and sustainable development of the area.

Joanna Kelly

Planning Inspector

20 September 2016