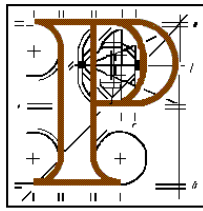


An Bord Pleanála



Inspector's Report

Appeal Reference No: 06D.246810

Development: Permission sought for modification to the development permitted under Reg. Ref. D14A/0134, which provides for the rejuvenation of the Frascati shopping centre with all associated site works, Blackrock, Co. Dublin.

Planning Application

Planning Authority: Dun Laoghaire- Rathdown County Council
Planning Authority Reg. Ref.: D16A/0235
Applicant: IMRF II Frascati Ltd. Partnership
Planning Authority Decision: Grant Permission

Planning Appeal

Appellant(s) 1. Catherine Sampson
2. Blackrock Jewellers Ltd.
Type of Appeal: Third Party
Observers: Eva Fallon
Date of Site Inspection: 25th August 2016

Inspector: Emer Doyle

1.0 SITE LOCATION AND DESCRIPTION

The appeal site which has a stated area of 2.67 hectares is located at the long established Frascati Shopping Centre, Blackrock, Co. Dublin.

The site is bound by the N31 Frascati Road to the north-east; the rear of properties on George's Avenue to the south-east; the rear of properties on Frascati Park to the west and south-west and the rear of Lislea Apartments to the north.

A set of photographs of the site and its environs taken during the course of the site inspection is attached.

2.0 DEVELOPMENT PROPOSED

The permission sought mainly comprises of the following:

- Retain Anchor 2 at ground floor level.
- Provide a new retail unit adjacent to Anchor 2 and extend this retail unit onto part of the approved podium car park.
- Reconfiguration of the shopping centre as a result of retention of Anchor 2.
- Reduction of retail floorspace at first floor level and reallocation of the remaining retail floorspace in this location as retail storage for units at ground floor level.
- Increase in floorspace at lower ground floor level to provide for additional car parking and revised layout of lower ground floor level arising from retention of Anchor 2 at ground floor level.
- Extension of retail floorspace at ground floor level into colonnade area, and associated alterations to landscape area.
- Alterations to the configuration of units at first floor level, including reduction and reallocation of floor area previously permitted for Anchor 2.
- New mezzanine level management suite.
- Reconfiguration of restaurant unit on second floor level including omission of 1 No. terrace unit.
- The proposed modifications result in associated consequential alterations to elevations including a new roof profile over mall.

3.0 RELEVANT PLANNING HISTORY

D14A/0134

Permission granted for part demolition and extension of the Frascati Shopping Centre to the north east and to the north west to provide for an expansion of the retail, retail services, restaurant/café and ancillary floor space at lower ground, ground, first and second floor level, including a terrace for the second floor level and north west part of the site.

D15A/0751

Permission granted for amendments to D14A/0134.

D16A/0065

Permission granted for amendments to D14A/0134.

4.0 PLANNING AUTHORITY DECISION

4.1 TECHNICAL REPORTS

Planning Report

The planner's report noted that three submissions were received. The planner considered that the proposed modifications 'which primarily relate to internal alterations, reconfiguration and associated elevational changes, with an increase in the overall gross floor area, but no increase in the total lettable commercial floorspace, will not significantly alter the development from that permitted.'

Parks and Landscape Section

This section expressed concern that no landscaping plans were submitted at application stage in accordance with Development Plan requirements but recommended permission subject to 'carefully crafted' conditions.

Drainage planning

No objection subject to conditions.

Transportation Section

No objection subject to conditions.

4.2 Planning Authority Decision

Dun Laoghaire Rathdown County Council issued a notification of decision to grant permission subject to 8 No. conditions.

Condition 1 required that save for revisions granted on foot of this permission, the development shall otherwise be retained and completed in strict accordance with the terms and conditions of Reg. Ref. D14A/0134.

Conditions 2 and 3, and 4 related to landscaping and tree protection.

All other conditions are standard for a development of this type.

5.0 GROUNDS OF APPEAL

A third party appeal against the Council's decision was submitted by **Catherine Sampson**. The grounds of appeal and main points raised in the submission can be summarised as follows:

- Concerns regarding proximity of proposed development and impact on residential amenity.

A third party appeal against the Council's decision was submitted by **Blackrock Jewellers Ltd**. The grounds of appeal and main points raised in the submission can be summarised as follows:

- No incorporation of mixed uses which are vital.
- Concerns regarding the retail mix proposed.
- No meaningful attempts to provide an adequate pedestrian/ cycle link across the Frascati Road.

- Insufficient car parking.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority Response

The Planning Authority response noted that ‘from a planning perspective, it is considered that the proposed mix of uses within the shopping centre accords with the Dun Laoghaire Rathdown County Development Plan, 2016-2022 and the Blackrock Local Area Plan 2015-2021.’

It states that ‘detailed analysis of the retail/ restaurant mix was undertaken by the Planning Authority and the mix was considered appropriate. The proximity to Lislea apartments was carefully considered and the impact of the proposed redevelopment should improve the traffic flow and parking. Landscaping and mitigating measures were also proposed to minimise the effects of the development on adjoining residential properties.

6.2 First Party Response

A first party response has been submitted on behalf of the applicant which can be summarised as follows:

- Application is for relatively minor modifications to parent permission.
- Appeal by Bannon Jewellers is vexatious with the sole intent of delaying the development. It is requested that the Board dismiss this appeal.
- Modifications proposed are substantially similar to those already granted under the parent application and the two additional applications for modifications and do not materially impact on the residential amenities of adjacent properties.
- The gross quantum of commercial floorspace does not exceed that already permitted. There is no basis for the concern that the increase in restaurant floorspace and decrease in retail floorspace will affect the mix and viability of the centre.
- Carparking and access arrangements are in accordance with those already granted at this location.

6.3 Observations

An observation has been submitted from Eva Fallon which can be summarised as follows:

- Concerns regarding proximity of proposed development and impact on residential amenity.

7.0 POLICY CONTEXT

Retail Strategy for the Greater Dublin Area, 2008-2016

Recommends that Blackrock District Centre be reinvented and enhanced to bring it back in line with modern retailing needs. Blackrock is identified as a Level 3 Town and District Centre in the retail hierarchy.

The Dun Laoghaire Rathdown Development Plan 2016 - 2022 is the operative County Development Plan for the area.

Zoning

The majority of the site is zoned as Objective DC - 'To protect, provide for and-or improve mixed use district centre facilities.'

Section 3.2 deals with Retailing. Relevant policies include RET1, RET2, RET3, RET5, RET11 and RET12.

A specific objective is identified for Blackrock District Centre which promotes the future redevelopment of Blackrock as a sustainable mixed-use district centre having regard to the broad objectives of the Blackrock Local Area Plan.

Blackrock Local Area Plan 2015

Section 7.4 identifies that the Frascati Shopping Centre is in the Core Retail Area. Relevant objectives RC1, RC2, and RC3 are set out in Section 7.4.

Section 7.5 deals with Vitality and Viability.

Section 7.7.1 sets out policy for the redevelopment of Blackrock and Frascati Shopping Centres.

Section 7.7.2 sets out Development Guidance for Blackrock and Frascati Shopping Centres.

ASSESSMENT

Having examined the file and having visited the site I consider that the main issues in this case relate to:

1. Principle of Proposed Development
2. Request to Dismiss Appeal
3. Impact on Residential Amenity
4. Mix of Uses and Retail Mix
5. Other Matters

Principle of Proposed Development

The subject site is located mainly on lands which are zoned as Objective DC - 'To protect, provide for and-or improve mixed use district centre facilities.'

A specific objective is identified in the Development Plan for Blackrock District Centre which promotes the future redevelopment of Blackrock as a sustainable mixed-use district centre having regard to the broad objectives of the Blackrock Local Area Plan.

The shopping centre is a well established retail use at this location and the proposed development is compatible with the zoning objectives. I would consider that the principle of the proposed development is acceptable under the zoning policy.

Request to Dismiss Appeal

The appeal response states that the issues raised by the appellants are without substance and vexatious in respect to the Bannon Jewellers appeal and requests the Board to dismiss the appeal.

It is stated that there are no valid grounds of appeal, which have not already been considered under the parent permission and the two subsequent modification applications.

In the case of the appeal by Blackrock Jewellers (Bannon Jewellers), it is stated that the applicant has been in commercial negotiations with the appellant for a new store in the rejuvenated shopping centre and 'it would now appear that he is using the appeal process to enhance his negotiating position.'

I note that this application primarily relates to practical issues in relation to the redevelopment of the shopping centre at this location such as fire safety, car parking, size of units, alterations to configuration of the mall, alterations to restaurant sizes, omission of a terrace of the restaurant, relocation of electrical rooms, etc. These alterations are very well detailed in the application drawings, documentation submitted with the application and planner's report. The principle of development has already been accepted and I consider that the amendments are minor in terms of the overall scale of the project and having regard to existing and permitted development at this location. I consider that valid planning matters have been raised in the appeals. As such, I consider that it would be inappropriate for the Board to dismiss the appeal under Section 138(1)(a)(i) or (ii) of the Planning and Development Act 2000 as amended.

Impact on Residential Amenity

The main concerns raised in the appeal and observation in relation to the impact on residential amenities relate to noise pollution, exhaust pollution, the new traffic arrangements with the access to the car park in close proximity to the Lisalea apartment block, the location of the delivery set down /loading facility. Concern is also expressed in relation to the impact that the major redevelopment will have on the vermin population in the area.

I note that the arrangements to delivery and access are in accordance with the arrangements proposed and granted under the parent permission for the redevelopment of the centre. As such, I do not consider that the arrangements for delivery and access will materially impact on the residential amenities of the area.

The proposals provide for the relocation of external electrical rooms from the rear of the centre to the north west of the podium car park. Whilst this is closer to the Lislea apartment block, I consider that having regard to the high boundary wall and planting at this location, the revised location will not seriously detract from the residential amenities of adjacent properties in the vicinity.

There are some alterations to car parking but I would consider that the alterations proposed provide for a more efficient and practical use of spaces and provide for more parent and disabled car parking spaces. I do not consider that the revised car parking arrangements would have any more impact on the residential amenities of the adjacent apartment block than the arrangements already granted at this location.

In relation to the concern expressed regarding vermin, the excavation and construction work proposed may well have an impact on vermin in the area. However, the proposed modifications will not have any more impact on vermin than the permission already granted on the site and the redevelopment will be undertaken in accordance with a construction management plan and adhere to best practice for construction and demolition phase.

As such, I am satisfied that the proposed modifications will not seriously detract from the residential amenities of the area.

Mix of Uses and Retail Mix

The main concerns raised in the appeal by Blackrock Jewellers relate to the mix of uses and the retail mix of the proposed centre.

Concern is expressed in the appeal that the proposal is contrary to the guidance set out in Section 7.7.2 of the Blackrock Local Area Plan in relation to the mix of uses proposed. Concern is also expressed regarding the retail mix in terms of the increase in restaurant space and the decrease in retail space.

Section 7.7.2 of the Blackrock Local Area Plan 2015 sets out detailed guidance for the redevelopment of the Blackrock and Frascati Shopping Centres. It states that 'any development shall incorporate a mix of uses including evening uses, which enhance the vitality and viability of the area. Any comprehensive redevelopment of the Frascati Shopping Centre shall incorporate an element of high quality residential development, a community/exhibition room and a crèche/ childminding facility. Residential element should include a mix of unit types.'

I note that this application provides for relatively minor modifications, which primarily relate to fire safety requirements, internal alterations, reconfigurations with an increase in the overall gross floor area but no increase in the total lettable commercial floorspace. There are changes to the car parking arrangements but no changes to the

overall number of spaces. There are minor elevational changes and a revised roof plan to provide for a glazed roof over the mall.

Having regard to the nature of the application, the planning history of the site, and the relatively minor amendments proposed, I am of the view that it would be inappropriate at this stage to seek to revisit the planning approach taken under the parent permission. In addition, I note that the redevelopment of the site is not considered to constitute a major redevelopment of a brownfield site but could be more accurately described as the rejuvenation of a long established and dated shopping centre.

In terms of the retail mix proposed the proposed modification provides for an increase in the restaurant/ café floorspace from 1,507m² to 1971m² and a reduction in the total ground floor area of retail/ retail services by c. 450m². The commercial lettable floorspace is substantially similar to that already granted with the main change being the increase in restaurant floor space and the decrease in retail floorspace.

I am of the view that this change is not considered to require a new Retail Impact Statement. I note that the Planning Authority Response states that 'from a planning perspective, it is considered that the proposed mix of uses within the shopping centre accords with the Dun Loaghaire/ Rathdown County Development Plan 2016-2022 and the Blackrock Local Area Plan 2015- 2021. Detailed analysis of the retail/ restaurant mix was undertaken by the Planning Authority and the mix was considered to be appropriate.'

As such, I am satisfied that the proposed mix is appropriate for the shopping centre and will not detract from the vitality or viability of the area.

Other Matters

Traffic Movement

The appeal by Blackrock Jewellers expresses concern regarding the adequacy of car parking and considers that no meaningful attempts have been made to provide an adequate pedestrian/ cycle link across the Frascati Road at this location.

I note that the Transport Section of the Council had no objection to the proposed modifications. I also note that there is a letter on file from ILTP Traffic Consultants which advised that as there is no increase proposed to the total lettable retail, retail services and restaurant/ café floorspace, there will be no measurable changes in overall traffic terms.

The proposed application does not alter the pedestrian and cycle link across the Frascati Road from the parent permission and the proposed changes to the car parking arrangements are considered to be minor and in line with the previous grant of permission. As such, I am of the view that the arrangements proposed for car parking and the pedestrian and cycle link are satisfactory at this location.

Appropriate Assessment

Having regard to the nature and scale of the development and proximity to the nearest Natura 2000 site, I am satisfied that the proposed development either individually or in combination with other plans and projects would not be likely to have a significant effect on any designated Natura 2000 site and should not be subject to appropriate assessment.

RECOMMENDATION

Based on the above assessment, I recommend that permission be granted for the proposed development for the reasons and considerations set out below:

REASONS AND CONSIDERATIONS

Having regard to the established retail use of the site, the zoning objective for the area, the planning history of the site and to the nature and scale of the proposed development, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area 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.

CONDITIONS

1. The development shall be carried out and 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 out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Save for revisions granted on foot of this permission, the development shall otherwise be carried out in accordance with the terms and conditions of Planning Permission Reg. Ref. D14A/0134, save as may be required by the other conditions attached hereto.

Reason: In the interest of clarity.

3. The noise level shall not exceed 55 dB(A) rated sound level, as measured at any point along the boundary of the site. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity of the site.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interests of residential and visual amenity.

5. 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 the 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.

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.

Emer Doyle
Inspector
3rd October 2016