



An  
Bord  
Pleanála

## Inspector's Report PL.06D.246815

<b>Development</b>	Permission for full off-licence for alcohol sales at Riverside Service Station, Shanganagh Road, Shankill, Co. Dublin.
<b>Planning Authority</b>	Dun Laoghaire-Rathdown
<b>Planning Authority Reg. Ref.</b>	D16A/0241
<b>Applicant(s)</b>	Gerard Marbach, Cheryl Marbach & Benjamin Marbach
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Appellant(s)</b>	Third Part v. Grant of Permission <ol style="list-style-type: none"><li>1. Tom Nolan</li><li>2. Seaview Residents Association</li></ol>
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	7 <sup>nd</sup> September 2016
<b>Inspector</b>	Dáire McDevitt

## **1.0 Site Location and Description**

- 1.1 The application site has an area of c. 0.230 hectares and is located on the western side of Shanganagh Road, Shankill, Dublin 18. Riverside Service Station (petrol station and associated Mace store) is currently operating from the site. The site itself is surrounded by residential developments to the north-west, west and south. There is a pedestrian link from the Shanganagh Road to Seaview housing estate located along the southern boundary of the application site.
- 1.2 The existing retail unit has a floor area of c 133sq.m. The proposed change of use relates to 6.2sq.m within this unit.
- 1.3 There was a car wash area under construction at the time of inspection
- 1.4 Photographs and Maps in the pouch

## **2.0 Proposed Development**

- 2.1 Permission for full off-licence (6.2sq.m) within an existing retail unit (MACE store) at Riverside Service Station.

## **3.0 Planning Authority Decision**

### **3.1 Decision**

Permission was granted subject to 3 conditions.

Condition no. 3 included restrictions on the off-licence element in terms of location of display units and floor areas associated with same.

## **3.2 Planning Authority Reports**

### **3.2.1 Planners Report (1<sup>st</sup> June 2016)**

The main points raised were:

- Compliance Development Plan policies and objectives.
- Planning history
- Similar developments in the county

### **3.2.3 Other Technical Reports**

**Transportation Section:** Further Information on outstanding compliance for D14A/0617.

**Drainage Section:** No objection.

### **3.2.3 Third Party Observations**

There were five submissions on the Planning Application:

- Tom Nolan
- Tony Murtagh
- Seaview Residents Association
- Residents of Broomfield Court
- Marcus & Karen Wren

The main points of concerns can be summarised as follows:

- Anti-social activities associated with the sale of alcohol at this location.
- Litter

- Too many off licences in the area.
- No justification for an off licence at this location
- Refused previously by An Bord Pleanála
- Planning Notices erected at wrong place.

#### 4.0 Planning History

There are numerous history files associated with the application site:

**D14A/0653.** Permission granted in January 2015 for a single storey extension to front, side and rear of existing forecourt consisting of staff and customer toilets, food preparation area and service counter, storage area, food consumption area and extended shop area together with all ancillary site works.

**D14A/0617.** Retention permission granted January 2015 in for a portacabin currently being used as office and a steel container currently used as additional storage.

**D10A/0663.** Retention permission granted in February 2011 for increased floor area (14.7sq.m) to facilitate customer toilets and store area to previously granted forecourt shop (planning ref. D09A.0725).

**D09A/0725 (PL.06D.236032).** Permission granted in July 2010 for the demolition of existing forecourt shop (70.13sq.m) to facilitate the construction of a new forecourt shop which will include toilets (101 sq.m retail area), offices, store area, off-licence and ATM cash machine facility. Granted by An Bord Pleanála.

Condition no. 5 was attached by the Board:

*The proposed off-licence use shall be omitted from the development.*

*Reason: To restrict the scope of the retail development, having regard to the considerations of pedestrian and traffic safety and of amenity.*

**D06A/0644 (PL06D.220285).** Permission refused in March 2007 to demolish the existing petrol station and construct new petrol filling station to provide for retail shop with ancillary food bar, forecourt canopy, pump islands, underground tanks, car washing facilities, car parking, service compound and plant house together with ancillary works. Refused on the grounds of prematurity pending the determination of a road layout for the realignment of the Shangannagh Road (part of site within the reservation area for the proposed realignment).

## **5.0 Policy Context**

### **5.1 Dun Laoghaire-Rathdown County Development Plan 2016-2022**

#### **Section 8.2.6.6 Off-Licences/Betting Shops**

*The Planning Authority will seek to protect residential and other communities by ensuring that the quantum of off-licence/betting shops – particular within smaller centres – is not disproportionate to the overall size and character of the area. However, the number and control of off-licences will primarily be a licensing issue. In any consideration of proposals for off-licences/betting shops, regard to the amenities of nearby residents – i.e noise, general disturbance, hours of operation and litter – will be paramount. New off-licence and Betting Shops will not be permitted in areas zoned Objective ‘A’ – ‘to protect and/or improve residential amenity’.*

### **Section 8.2.6.7 Petrol Stations**

### **Section 8.3 Land Use Zoning Objectives**

**Land Use Zoning ‘A’** *“To protect and/or improve residential amenity”. Part off-Licences are open for consideration under this land use objective.*

#### **Section 8.3.12. Uses Class:**

*Part Off-Licence is a building where the main use is the sale of convenience retail goods to members of the public and contains a subsidiary area of the premises which is licensed and used for the display and sale of intoxicating liqueur, including wines, beers and spirits for consumption off the premises*

## **5.2 Natural Heritage Designations**

None of relevance

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

Two third party appeals have been received (Tom Nolan & Seaview Residents Association). The main grounds of appeal are:

- The proposed off-licence under D09A/0725 was omitted by condition on appeal under PL.06D.236032.
- Issues that arose under PL06D.236032 remain.
- Within 1.5km of the site there are currently 8 to 9 off licences which more than meet the needs of the population.

- There is a security camera system covering the service station but not the lane from the Seaview estate to Shanganagh Road. This system is not connected to the local Garda station.
- Issue with litter (discarded cans)
- Service stations should be the last place alcohol is sold due to the drink driving laws.
- The service station is located on the worst 'S-bend' in the county, and to turn right against oncoming traffic, to enter or leave day or night, is difficult.
- The application does not contain a security plan and staff training essential for the safe operation of such a retail outlet in an isolated location such as this. This demonstrates lack of consideration for neighbours and community.
- Concern that the proposal would lead to anti-social behaviour and gathering on adjoining greens and paths.
- If a licence is granted it would make this premises an easy target for late night break-ins and robberies, putting the adjoining homes at risk.
- Previous restriction on the permitted of an off-licence at this location should stand and should be even more relevant now due to the increase in traffic at this location.

## **6.2 Planning Authority Response**

Reference is made to the Planner's Report (1<sup>st</sup> June 2016) and it is further noted that:

The proposal is for a part off-license use at this site. The proposed change of use relates to an established retail unit which provides a wide range of convenience goods. Furthermore there is a precedent for this type of development in 'A' zoned lands within the county. In this respect and having regard to the nature and scale of the proposal, it is considered that the proposed change of use at this site would be compatible with the policies and objectives for the area and would not adversely impact on the residential amenities of the area or of property in the vicinity. Therefore, the Planning Authority urges the Bord to uphold the decision to grant permission subject to conditions in this instance.

### **6.3 Applicants Response**

The Applicant has submitted response to the appeal submissions, this can be summarised as follows:

- They have been operating the Service Station since 2011, prior to them buying and refurbishing the site. It was dilapidated and in poor condition with the petrol station on site at the time closed down. The re-opening of a service station and retail unit has benefited both the applicants and the local residents. The site is well maintained and complements the area.
- The residents of Seaview objected to the initial application in 2009 for the refurbishment of a disused site.
- The site is on lands zoned 'A' in the Dun Laoghaire-Rathdown County Development Plan which outlines that Part Off-Licenses are generally open for consideration providing that the Planning Authority is satisfied that the proposed development would be compatible with the overall



policies and objectives for the zone and would otherwise be consistent with the proper planning and sustainable development of the area.

- The appeal submissions mainly relate to concerns regarding anti-social behaviour along the laneway immediately adjacent to the site. There are further concerns that the sale of alcohol will compound the existing issue of anti-social behaviour in the laneway.
- The Service Station operates 6am to 10pm (Mon-Sat) and 7am to 10pm (Sun) since opening in 2011 and there have been no issues with the adjoining lane between Seaview and the Shanganagh Road that the applicants are aware of. The staff work with the Tidy Towns Association to keep the lane clean and litter free.
- As part of the Service Station's CCTV system one of the cameras face into the lane for added security. The applicants have also removed the wall that abutted the laneway and petrol station and replaced it with see-through fencing which has enhanced the safety of the lane (photo included).
- An off-license would provide convenience to the existing customers already using the filling station for their convenience goods (c. 80% is vehicular trade and 20% pedestrian from local housing estates and immediate area).
- Existing off-licences in the general area are at a notable distance from the site and should not be considered 'in close proximity'

#### **6.4 Observations**

None

## **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
- Residential Amenity
- Appropriate Assessment

### **7.1. Principle of Development**

- 7.1.1. The application is for the change of use from retail to off-licence within a retail unit ancillary to a petrol station. The site is zoned 'A' and part off-licences are open for consideration under this land use zoning objective.
- 7.1.2 The proposed change of use (6.2 sq.m) is ancillary and subordinate to the main use and falls under the definition of 'part off licence' as set out in section 8.3.12 of the County Development Plan. The proposal is considered acceptable in principle.

### **7.2 Residential Amenity**

- 7.2.1 The development refers to a combined floor area of 6.2 sq.m, split between a an area within the general public floor space for wine and beer (c. 3.5sq.m) and area behind the service counter for spirits (c.2.7sq.m).
- 7.2.2 The impact of the change of use on the surrounding area has been raised by the appellants.

- 7.2.3 It is not envisaged that the proposed change of use would result in a significant increase in pedestrian and vehicular movements to the site as the proposed use is ancillary to the established use on site (petrol station and retail unit).
- 7.2.4 The hours of operation have been restricted by condition by the Planning Authority. While it is noted that there are similar developments within the vicinity of the site (Shankill village, Rathsallagh estate), the current proposal is for a part off-licence which is within and subordinate to the main use of the retail unit on site. The proposal would therefore not have a negative impact on the surrounding area.
- 7.2.5 The off-licence element cannot be accessed or operated independently of the main retail unit. I consider the proposed off licence element within an existing retail unit would be marginal in terms of floor area and ancillary to the main retail use and can be conditioned accordingly.
- 7.2.6 Having regard to the scale and location of the proposed development within an existing retail unit I consider that the proposed development would not seriously injure the amenities of the area or of properties in the vicinity and would be in accordance with the zoning objective for the area. Therefore I agree with the Planning Authority and permission should be granted subject to appropriate conditions.

### **7.3 Appropriate Assessment**

- 7.3.1 Having regard to the nature and scale of the development within an established retail unit, 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 and projects on a European site.

## **8.0 Recommendation**

I recommend that planning permission should be granted, subject to conditions for the reasons and considerations as set out below.

### **Reasons and Considerations**

Having regard to the zoning objectives for the area and the scale of the development, it is considered that, subject to compliance with conditions set out below that the proposed development would not detract from the amenities of the area. 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.

**Reason:** In the interest of clarity.

2. The off-licence use permitted under this application shall be a subsidiary use within the main retail unit. The floor area of the off-licence display shall not exceed 6.2 square metres at any one time.

**Reason:** In the interest of clarity.

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Dáire McDevitt

Planning Inspector

23rd September 2016