



An
Bord
Pleanála

Inspector's Report PL29N.247192

Development	Change of use from retail to restaurant with new signage & associated works
Location	Ground floor unit, 29 Liffey Street Lower, Dublin 1
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2977/16
Applicant(s)	Huseyin Ucar
Type of Application	Planning permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Zaheed Udin Mohammed
Observer(s)	None
Date of Site Inspection	12 th December 2016
Inspector	Karla Mc Bride

1.0 Site Location and Description

1.1. The site is located on the corner of Liffey Street Lower and Strand Street Great on the north side of Dublin City. The surrounding area is predominantly commercial in character. The appeal premises occupies the ground floor of an existing 2-storey building which was previously used as a food shop. The use has now changed to a seated restaurant which is open for business and the new signage is in place.

2.0 Proposed Development

2.1. The proposed development would comprise a change of use from retail to restaurant use in a 60sq.m. unit along with new signage and associated site works.

3.0 Planning Authority Decision

3.1. Decision

The PA decided to grant permission subject to 11 standard conditions.

- Condition no.2 restricted the use of the restaurant to a seated venue only with no takeaway element permitted.
- Condition no.3 required the omission of the projecting lighting and the use of individually mounted letters on the signage.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Following the receipt of further information in relation to the type of restaurant proposed, the waste management strategy, revised signage and ventilation details, the Planning Officer's report recommended a grant of permission.

3.2.2. Other Technical Reports

- Drainage Division: No objection
- Environmental Health Officer: No objection subject to conditions.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland: No objection.

3.4. Third Party Observations

Three submissions received which included one letter of support and two objections.

The objectors raised concerns in relation to:

- Proliferation of kebab restaurants on Liffey Street.
- Designated Category 2 street which has seen the erosion of retail uses to on retail services.
- No waste disposal plan or ventilation system
- Invalid application.

The letter of support stated that:

- The use will add vitality, diversity and create a mix of uses on the street.
- Lack of restaurants since the closure of the Epicurean Food Hall.

4.0 Planning History

Reg. Ref. 4150/16 – Permission sought for retention of a change of use of ground floor travel agents to a Starbucks café with seating at no. 22-23 Liffey Street Lower.

Reg. Ref. 3175/16 – Permission sought for a change of use of hairdressers to restaurant use at no. 27 Liffey Street Lower (adjacent to appeal premises).

Reg. Ref. 3079/16 – Permission granted for a change of use from restaurant to retail at the former Epicurean Food Hall, 13-14 Liffey Street Lower.

Reg. Ref. 2123/13 - Permission granted for the change of use from retail to retail and restaurant at 40-41 Ormond Quay Lower with frontage on to Liffey Street Lower.



5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

Zoning: The site is located within an area covered by the Z5 zoning objective in the Development Plan which seeks “to consolidate and facilitate the development of the central areas, and to identify, reinforce and strengthen and protect its civic design character and dignity.” The proposed use is listed as permissible.

Policy CEE18 (iv): seeks “to recognise the major economic potential of the café/restaurant/ sectors, including as an employment generator; making the city more attractive for workers, residents, and visitors; providing informal work and business meeting spaces; to be a part of the city’s innovation ecosystem; and to encourage the provision of new cafes and restaurants, including on Category Two Retail Streets.

Retail Strategy: The site is located on an important Category One or Two Principal Shopping Street, which adjoins the premier retail street quarter of O’Connell Street and Henry Street, The Strategy states that uses such as restaurants will be considered on their merits, such developments will be permitted provided the primary retail function of the street will not be undermined.

Section 16.29 deals with restaurants and states that the positive contribution of café and restaurant uses and the clusters of such uses to the vitality of the city is recognised. In considering applications for restaurants, the following will be taken into consideration:

- The effect of noise, general disturbance, hours of operation and fumes on the amenities of nearby residents.
- Traffic considerations.
- Waste storage facilities

- The number and frequency of restaurants and other retail services in the area (where a proposal relates to a category 1 or 2 shopping as defined in 'City Centre Retail Core, Principal Shopping Streets' in Chapter 7 and Appendix 3).
- The need to safeguard the vitality and viability of shopping areas in the city and to maintain a suitable mix of retail uses.

Policy RD15: seeks to require a high quality of design and finish for new and replacement shopfronts, signage and advertising. Dublin City Council will actively promote the principles of good shopfront design as set out in Dublin City Council's Shopfront Design Guidelines. (See also 16.24.2)

Car parking: 1 space per 350sq.m GFA (retail) and none for cafes/restaurants.

6.0 The Appeal

6.1. Grounds of Appeal

- The development is contrary to the Council's will to strike the necessary balance of uses in the city centre.
- It is contrary to the necessity to protect the primary retail function of Lower Liffey Street.
- It affects the dominant position of the central shopping core as the premier shopping area in the state.
- It is contrary to the Retail Core Framework Plan as It will decrease the amount of retail floor space in Dublin.
- The unit could be mainly used as a takeaway restaurant with resultant adverse impacts on nearby residential amenity.
- Over provision of restaurant, takeaway and bar uses on Liffey Street and the loss of a retail unit would undermine the primary retail function of the street.

6.2. Applicant Response

- No response received.

6.3. Planning Authority Response

- No new issues raised.

6.4. Observations

One observation received from Linevana Ltd od no. 24/25 Lower Liffey Street.

- Adverse impact on the offices located over the proposed development by way of ventilation, odours, fire risk, inadequate drainage and possible affray.
- Not all of the proposed works have been included in the application (signage, extract flues, waste disposal).
- Non-compliance with P&D Regulations, the floor area is stated as 66sq.m. in the public notices but only measures 57sq.m. on the drawings; and the red line boundary is different on the location map and site layout.
- The 2.6m height combined with the lack details in relation to ventilation, grease traps and cooking areas details indicates that the premises is unsuitable for a restaurant.
- Request a condition prohibiting the use of the premises as a takeaway and amalgamation with the next door premises.
- The upper part of Lower Liffey Street has a better mix of retail, retail services and bars and restaurants than the lower section.
- The purpose of Category 1 and 2 street designations is to protect the primary retail function of these street with an emphasis on higher order comparison retail and a rich mix of uses, complemented by restaurant and café use.
- Over concentration of retail services and loss of one of the few remaining ethnic convenience stores in the area would be unacceptable in an area where c.95% of the ground floor units are in retail service use.

- Proposed development would be contrary to the policies for Category 1 and 2 retail streets.
- There should be access to a yard to store and dispose of waste, no waste disposal or ventilation details provided.
- Proposal is incompatible with the proper planning and sustainable development of the area.

6.5 Further Responses

- None received.

7.0 Assessment

The main issues arising in this are:

- Principle of development
- Visual amenity
- Environmental Services & parking
- Development status

7.1. Principle of development

The appeal premises occupies an existing building along Liffey Street Lower in Dublin City Centre. The site is located within an area covered by the Z5 zoning objective which seeks “to consolidate and facilitate the development of the central areas, and to identify, reinforce and strengthen and protect its civic design character and dignity” and the proposed restaurant use is compatible with this objective. Policy CEE18 (iv) recognises the major economic potential of the café/restaurant/ sectors. However, the site is also located on an important Category One or Two Principal Shopping Street, which adjoins the premier retail street quarter of O’Connell Street and Henry Street. The Council’s Retail Strategy states that restaurants will be considered on their merits and that such developments will be permitted provided the primary retail function of the street is not undermined. Section 16.29 goes on to state that when considering applications for restaurants the number and frequency of restaurants and other retail services in the area will be assessed along with the need to safeguard the vitality and viability of shopping areas in the city and to maintain a suitable mix of retail uses.

Liffey Street Lower contains approximately 45 individual or combined units and the street is characterised by a mix of commercial uses at ground level which include retail, retail services, restaurants, cafes and public houses. According to my assessment of the area and to the information contained in Thom’s Directory for Dublin City Centre (2006 and 2011), there was no significant change in the number and mix of units on Liffey Street Lower between 2006 and 2011, although there was a shift from retail to restaurant and from restaurant to retail by 2016.

The most marked changes which have occurred relate to the change of use of: - the former Woollen Mills to retail/café; the former Epicurean Food Hall to a Dealz retail shop; a former travel shop to a Starbucks café (subject of a retention application); and the current change of use of a food shop to a restaurant which is the subject of this appeal. The (approximate) results of this analysis are summarised below and they include the four aforementioned units at the corner of Ormond Quay Lower, no.13-15 on the E side of the street and nos. 22-23 and 29 on the W side:

	2006	2011	2016
Retail	11	12	10
Retail services	5	5	3
Restaurant/café/pubs	9	10	12

Having regard to the long established mix of retail, retail services and restaurant uses along Liffey Street Lower and to the changes that have taken place over the past 10 years, I am satisfied that the proposed development would not have an adverse impact on the vitality and viability of this shopping area, and that on balance a suitable mix of retail uses would be maintained in accordance with section 16.29 of the Development Plan.

7.2. Visual and residential amenities

There would be minimal changes to the existing front and side elevations although new signage is proposed. The planning authority raised concerns in relation to the proposed signage and Condition no.3 required the omission of the projecting lighting and the use of individually mounted letters on the signage. This condition is considered reasonable however it is noted that the projecting lighting does appear to form part of the current shopfront. There are also several small apartment developments in the vicinity and the residential amenities of the occupants should be protected from excessive noise and disturbance. These concerns could be addressed by way of planning conditions.

7.3. Environmental services and parking

The proposed arrangements, as amended by way of FI, are considered acceptable and in accordance with section 16.29 of the Development Plan, subject to compliance with the requirements of the Environmental Health Officer. There is no requirement to provide car parking for the restaurant use and servicing will take place via the neighbouring streets which have adequate capacity.

7.4. Development status

The applicant is seeking planning permission to change the use of an existing retail unit to a restaurant along with new signage and associated site works. However, it was noted during the course of my site inspection that the works have already taken place, the restaurant is fully operational and the new signage is in place. The Board may wish to consider whether or not this gives rise to validation issues with regard to the status of the planning application.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2016-2022, and to the nature and scale of the proposed development and to the pattern of development in the area, it is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further information submission received by the planning authority on the 29th day of July 2016, 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 in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. For the avoidance of doubt, the premises shall be used as a seated restaurant only and not for the sale of hot food for consumption off the premises.

Reason: In the interest of clarity

3. The proposed projecting lighting shall be omitted and the fascia signage shall be provided using individually mounted lettering using high quality materials in lieu of painted signage. Details of the proposed signage and security shutters shall be submitted for the written agreement of the planning authority before development commences. No further advertisement signs (including any signs installed to be visible through the windows), security shutters, advertisement structures, banners, canopies, flags, other projecting elements or shall be displayed or erected on the buildings, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

4. The opening hours of the premises shall be restricted to between 0800hours and 2200 Monday to Sunday, inclusive of public holidays.

Reason: In the interest of orderly development and to protect the residential amenities of the area.

5. Details of the proposed insulation measures to prevent noise nuisance for the occupiers of the neighbouring dwellings shall be submitted for the written agreement of the planning authority before development commences.

Reason: In the interest of orderly development and to protect the residential amenities of the area.

6. Water supply and drainage arrangements, including the disposal of surface water and internal basement drainage, shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.

Reason: In the interest of public health.

7. The site works and building works required to implement the development shall only be carried out between 7.00 hours and 18.00 hours, Monday to Friday and between 08.00hours and 14.00 hours on Saturdays and not at all on Sundays or Public Holidays.

Reason: To safeguard the residential amenities of adjacent dwellings.

Karla Mc Bride

Senior Planning Inspector

12th December 2016