



An
Bord
Pleanála

Inspector's Report PL29N.247269

Development	Change of use from a fruit and vegetable shop to a fish and chip takeaway.
Location	139a North Strand Road, Dublin 1
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2651/16
Applicant(s)	Andrei Maritoi
Type of Application	Planning permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Darren Harrison
Observer(s)	None
Date of Site Inspection	21 st December 2016
Inspector	Karla Mc Bride

1.0 Site Location and Description

1.1. The site is located on North Strand Road on the north side of Dublin City. The surrounding area is mixed use residential and commercial in character. The appeal premises occupies an existing 2-storey terraced building which was previously used as a food shop and is now vacant. Access to the rear of the site is via a right of way off Strandville Avenue. There are several parking spaces in the vicinity of the site along North Strand Road which serve the neighbouring residential and commercial properties which include a chemist, funeral home, restaurant, public house and grocery shop. The appeal premises is bound on both sides by dwelling houses.

2.0 Proposed Development

- 2.1. The proposed development would comprise a change of use from retail to fish and chip takeaway restaurant.
- The 40sq.m. ground floor would comprise the take away shop, food preparation, storage areas and staff facilities.
 - The 31.6sq.m first floor would comprise a potato store, potato peeling room and a dry goods store.
 - Ventilation and extraction equipment, including a duct on the rear elevation.
 - The following opening hours are proposed:
 - 12 noon to 2.30pm and 4.00pm to 12.00 midnight Sunday to Thursday
 - 12 noon to 2.00pm and 4pm to 1.00am Friday and Saturday

3.0 Planning Authority Decision

3.1. Decision

Following the receipt of further information in relation to litter, ventilation and extraction, the PA decided to grant permission subject to 13 standard conditions.

Drainage Division: No objection subject to conditions.

Prescribed Bodies: No submissions received.

3.2. **Third Party Observations**

Several submissions received from residents of North Strand Road and Bessborough Avenue who raised concerns in relation to:

- Adverse impact on the surrounding area.
- Conflict with Development Plan objectives for the area.
- Proliferation of restaurants in the area.

4.0 **Planning History**

Reg. Ref.3426/15: Permission granted to retain a change of use from professional to residential use at the adjacent property at no.139 North Strand Road.

5.0 **Policy Context**

5.1. **Dublin City Development Plan 2016-2022**

Zoning: The site is located within an area covered by the Z3 zoning objective in the Development Plan which seeks “To provide for and improve neighbourhood facilities.” The proposed use is listed as open for consideration.

Retail Strategy: The site is located within a Neighbourhood Centres (Z3) and the primary purpose is to provide for the daily shopping needs or local services within a residential community and form an important element of a sustainable neighbourhood.....This retail strategy seeks to protect existing retail services facilities in neighbourhood centres which provide for daily shopping needs and seeks to remedy deficiencies to avoid social exclusion and isolation. Accordingly, in terms of local shopping provision in neighbourhood centres, Dublin City Council will:

- Ensure that the importance of local shopping needs is taken into account when assessing proposals that would result in a loss of shops to another use.
- A positive approach to the conversion and extension of shops which are designed to improve their viability.

Takeaways: Section 16.24 states that in order to maintain an appropriate mix of uses and protect night-time amenities in a particular area and to promote a healthier and more active lifestyle, it is the objective of Dublin City Council to prevent an excessive concentration of take-aways and to ensure that the intensity of any proposed take-away is in keeping with both the scale of the building and the pattern of development in the area. The provision of such facilities will be strictly controlled, having regard to the following, where appropriate:

- The effect of noise, general disturbance, hours of operation, litter and fumes on the amenities of nearby residents
- The need to safeguard the vitality and viability of shopping areas in the city and to maintain a suitable mix of retail uses
- Traffic considerations
- The number/frequency of such facilities in the area, particularly in close proximity to schools
- That the operators come to a satisfactory arrangement with Dublin City Council in relation to litter control
- The need to integrate the design of ventilation systems into the design of the building
- That appropriate cleansing/anti-litter measurements be agreed with Dublin City Council prior to the granting of planning permission.
- That all take-aways provide and maintain a suitable waste bin outside their premises during hours of business.
- The number and frequency of such facilities within a 1km radius of the proposed development.
- The context and character of the street where the aim is to maintain and improve the vitality of the shopping experience by encouraging a range of convenience and/or comparison retail shops.

Shopfronts: 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.

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

5.2. Grounds of Appeal

- Adverse impact on the established residential amenities of the area and in particular the adjoining house at no. 142 North Strand Road.
- Lack of detail in relation to ventilation, extraction and litter control.
- Increase in on-street activity, anti-social behaviour and noise at night in a predominantly residential area which is not a suitable location for a takeaway.
- The bedroom window at no.142 is directly adjacent to the takeaway.
- Condition no.5 granted permission for the proposed open hours which have no regard to the neighbours.
- No indication of how odour, waste and litter will be managed in line with Development Plan requirements and the proposal is therefore in contravention of the plan and the FI response is inadequate.
- Poor management will result in problems with odour, litter and vermin which would seriously injure the residential amenities of neighbouring properties.
- Excessive concentration of similar uses in the area, with an existing Italian restaurant directly adjacent to the proposed takeaway and a pizzeria and takeaway across the road.

5.3. Responses

None received from the applicant and no new issues raised by the planning authority.

6.0 Assessment

The main issues arising in this are:

- Principle of development
- Residential amenity
- Environmental services and parking

6.1. Principle of development

The appeal premises occupies an existing building along North Strand Road in Dublin City Centre. The site is located within a Level 4 neighbourhood centre that is covered by the Z3 zoning objective which seeks “to provide for and improve neighbourhood facilities.” The Retail Strategy seeks to protect existing retail services facilities in neighbourhood centres which provide for daily shopping needs and it seeks to ensure that the importance of local shopping needs is taken into account when assessing proposals that would result in a loss of shops to another use. The proposed takeaway use is open for consideration subject to a number of considerations which are set out in section 16.24 of the Plan. Section 16.24 states that when considering applications for hot food takeaways the impact on residential amenity, the number and frequency of such facilities in the area (1km radius), proximity to schools and retail offer and vitality of the street will be assessed along with waste management, cleansing, litter control and ventilation measures.

North Strand Road is characterised by a mix of residential and commercial uses. The neighbourhood centre within which the appeal premises is located contains approximately 15 units which include retail, retail services, restaurants and public houses. The Dublin City Development Plan defines the neighbourhood centre as running from no.131 to no.150d North Strand Road however in reality it runs from no.133 to no.150. According to my assessment of the area and to the information contained in Thom’s Directory for Dublin City Centre (2006 and 2011), the main changes between 2006, 2011 and 2016 relate to an increase in the number of vacant units and a reduction in the number of retail units. Although the neighbourhood centre is in a state of transition the residential and public house uses have remained relatively constant over this timeframe.

Having regard to the long established mix of residential, retail, retail services and café uses at the North Strand Road neighbourhood centre, I am satisfied that the proposed development would not give rise to a proliferation of café uses or have an adverse impact on the vitality and viability of this neighbourhood shopping area. The proposed development would therefore be acceptable in principle subject to an assessment of the impact of the proposal on the residential amenities of the area.

6.2. Residential amenity

The appeal premises, which was formerly occupied by a grocery shop, is located in the middle of an established Z3 neighbourhood centre which is surrounded by residential streets to the rear that are zoned Z1 and Z2 to protect residential amenity. The 2-storey appeal premises adjoins two single storey cottages to the SW at nos.142 and 143 which are set back from the main building line with small front gardens. The appeal premises also adjoins a 2-storey unit to the NE at no.139 which was recently granted planning permission under Reg. Ref. 3426/15 for a change from professional to residential use. The owner/occupier of no.142 has raised concerns in relation to the impact of the proposed change of use from retail to takeaway on the amenities of his house and the surrounding area in relation to odours, noise, litter and disturbance as well as anti-social activities.

The applicant submitted further information in relation to ventilation, extraction, waste storage and litter control. The submitted details are generally acceptable except for the ventilation duct to the rear of the property which appears to terminate half way up the rear elevation, although this could be addressed by way of a planning condition.

Notwithstanding these FI details and the location of the proposed development within an established and designated neighbourhood centre, it is noted that this particular centre is characterised by a mix of residential and commercial uses which are interspersed throughout its length. The proposed takeaway would also be bound on either side by dwelling houses and to the rear by the back gardens associated with the houses along Strandville Avenue and Bessborough Avenue.

Having regard to this juxtaposition of uses, the general operational characteristics associated with hot food takeaways, and the criteria set out in section 16.24 of the Development Plan in relation to takeaway uses, the proposed development would have a significant adverse impact on the residential amenities of the neighbouring houses and the surrounding area by way of odours, noise and general disturbance.

6.3. Environmental services and parking

The proposed arrangements, as amended by way of the further information submission, are considered acceptable subject to compliance with the requirements of Irish Water and the planning authority. There is no requirement to provide car parking for the takeaway use.

7.0 Recommendation

7.1. Permission should be refused for the reasons and considerations set out below.

8.0 Reasons and Considerations

1. Having regard to and nature and scale of the proposed development, the pattern of development in the surrounding area, and the provisions of the Dublin City Development Plan 2016-2022, including the criteria set out in section 16.24 in relation to takeaway uses, it is considered that the proposed development would seriously injure the residential amenities of the neighbouring dwelling houses and the surrounding areas. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Karla Mc Bride

Senior Planning Inspector

29th December 2016