



An
Bord
Pleanála

Inspector's Report
PL29N.247389

Development	Change of use from existing storage to industrial to retail, partial demolition and an extension with a net increase of 20 sq.m. and associated works.
Location	Unit 1 Slaney Road, Dublin Industrial Estate, Dublin 11.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3385/16
Applicant(s)	Integral Lighting Holdings Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Observer(s)	None
Date of Site Inspection	21 st February 2017
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site comprises a single storey vacant warehouse type premises in an established industrial estate dating from the 1970s and about 4km north west of Dublin City south of Finglas Village and north of Glasnevin and Phibsborough District centre. The premises are adjoined by similar sized premises which are occupied. Each unit has independent access and car parking.
- 1.2. Within the estate, the site is located on prominent corner site at the junction of Lee Road a minor road and Slaney Road a spine route through the industrial estate and a few hundred metres off the Finglas Road. The estate is characterised by a mix of traditional warehousing and industrial type business and also retail and retail warehousing businesses associated with building and interiors trade such as flooring, lighting, plumbing businesses which are clustered around the subject site. Pages 6-8 of the grounds of appeal provides a land use survey (mapped and tabular) indicating retail type uses for 31 properties in the estate. This I found to be a fairly accurate reflection of current uses in the area at time of inspection.
- 1.3. At time of inspection during mid-morning there was a steady flow of traffic along Slaney Road and car parking was evident along the roads in sections of the estate including Lee Road partially fronting the subject site.
- 1.4. As indicated in the survey drawings the layout of the premises includes a warehousing area of 346 sq.m., offices at 19 sq.m, retail area at 59 sq.m. changing area and wc at 18 sq.m. and lobbies at 40 sq.m.

2.0 Proposed Development

- 2.1. The proposal is to
 - Extend the porch area replacing existing 32 sq.m. area with a 51 sq.m structure
 - Use 183 sq.m. for retail space and 354 sq.m. for warehouse to replace full warehousing use.
 - Remove fencing to front to provide 7 off-street car park spaces
 - Access from car park on southern side and also pedestrian access from Lee Road

- Landscape planting along Lee Rod frontage

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Refuse permission on the basis that:

- It is retail warehouse in an out of town location and would be contrary to the Retail Planning Guidelines.
- Notwithstanding the existing retail uses and zoning in which retail warehousing is open for consideration, it is considered that the proposed retail warehousing would set an undesirable precedent for development that would be contrary to the overall objective Z6 which seeks to provide for employment uses.

3.2. Planning Authority Reports

3.2.1. Planning Report:

- Cites section 15.10.6 of the development plan in respect of the creation of employment centres by way of office based industry and technology business parks
- Car parking ratios of 1 per 200 sq.m cycling at 1 per 100 sq.m. are noted. Only 3 space required as opposed to the 7 proposed
- Notes the surrounding uses of printing, retail warehousing (Bargaintown, Des Kelly,) waste/recycling) and permission for offices/ extensions up to 3 storeys
- While there appears to be cluster of retail uses in the industrial estate, the planning history demonstrates a limitation of such uses though temporary permission etc. in controlling such uses. Retail use is seen as secondary to the primary objective to cater for longer term strategic employment uses in the form of office type parks.
- Reference is made to the draft 2016-2022 plan which seeks to review industrial estates with redevelopment potential it is suggested that a future review of Z6 lands may clarify the land use in this area

- Notwithstanding the retail use described as ad hoc it is considered that the retail use would not support the z6 land use objective for the area.
- No objections for internal department – transport and drainage.
- Not satisfied that sequential test applied for this out of centre location for retailing

3.3. Prescribed Bodies

TII: No comment

4.0 Planning History

Subject site

- Planning authority reference 3324/15 refers to a grant of permission for a change of use from warehouse to bakery with small factory outlet shop and 44 sq.m. extension. Ancillary works include: vehicular access from Lee road and removal of fence, alterations to elevations. (Not implemented- PA report and notice attached at back of file)
- An Bord Pleanála Ref PL29N.235982 refers to a grant of permission for telecommunications mast. (order attached at back of file)
- An Bord Pleanála Ref PL2N.245812 refers to a refusal of permission for retention of a telecommunications mast by reason primarily of impact on residential amenity. (order attached at back of file)

Near site – also refer to planning authority report.

- An Bord Pleanála ref PL29N.215897 (8-11 Slaney Road) refers to a split decision which granted permission for a warehouse extension but Refused permission for retention of retail use of 825 square metres as furniture showroom and retention of existing signage based on the reason: The proposed retention of a large furniture showroom in an industrial estate would conflict with the policy of the planning authority as set out in the Dublin City Development Plan, 2005-2011 to locate such facilities in properly planned

retail parks. It is considered that the site is not located in a retail park and the development proposed to be retained, by and itself and the precedent it would set for similar such proposals, would,

5.0 Policy Context

5.1. Development Plan 2016-2022 – adopted September 2016

The site is in an area governed by the objective Z6 to provide for the creation and protection fo enterprise and facilitate opportunities for employment creation.

Development principles applying to Z6 (enterprise and employment) lands have been revised since the last plan (which informed the planning authority decision), taking account of changes in planning context (Section 14.8.6).

Section 14.8.6 It is considered that Z6 lands constitute an important land bank for employment use in the city, which is strategically important to protect. The primary objective is to facilitate long-term economic development in the city region. The uses in these areas will create dynamic and sustainable employment, and these uses include innovation, creativity, research and development, science and technology, and the development of emerging industries and technologies, such as green/clean technologies. The permissible uses above will be accommodated in **primarily office-based industry and business technology parks** developed to a high environmental standard and incorporating a range of amenities, including crèche facilities, public open space, green networks and leisure facilities. A range of other uses including residential, local support businesses, are open for consideration on lands zoned objective Z6 but are seen as subsidiary to their primary use as employment zones.

RD10: To control the provision of retail warehousing and retail parks in accordance with the

advice set out in the ‘Guidelines for Planning Authorities – Retail Planning – 2012, DECLG’.

RDO1: To implement the retail hierarchy contained in the ‘Retail Strategy’ of this Development Plan i.e. the city centre retail core, the district centres/urban villages, neighbourhood centres/shopping parades, local shops.

Appendix 3 sets out the retail strategy which takes full cognisance of national and regional policy guidance on retail planning, spatial settlement policy and transport. Finglas and Harborough are included in both 3rd and 4th of the retail hierarchy (District/local/neighbourhood)

A number of key principles are identified as guiding sustainable retail provision: the location and scale of retail provision to reflect the settlement hierarchy; the requirement for additional retail floorspace; application of the sequential approach to support existing centres; that new retail is of the right scale and that impact on neighbouring centres is minimal; the provision of locally accessible shopping to serve the needs of communities; the provision of higher order shopping within key centres that are easily accessible by high-quality public transport; and the need for consumer choice and affordability.

Applications for retail warehouses will have to satisfy the following criteria:

1. If applicable, demonstrate via the sequential test and/or retail impact assessment how the proposal satisfies retail guidelines when located outside existing centres.
2. That the proposal be well designed and integrated with the environment.
3. That it is accessible by all modes of transport including pedestrian and cyclist.
4. That the bulky goods being retailed are those defined in Annex 1 of the Guidelines for Planning Authorities, Retail Planning Guidelines 2012.

5.2. **Guidelines for Planning Authorities Retail Planning 2012**

Key policy objectives:

1. Ensure that retail development is plan-led
2. Promote city/town vitality through the sequential development approach
3. Secure competitiveness by aligning quality development in appropriate location
4. Facilitate a modal shift towards sustainable transport access in new developments
5. Ensuring quality urban design

Section 3.8 Development Plans and Retail Warehousing

The need for any additional retail warehousing should be carefully assessed in view of the significant levels of recent provision and potential impacts on vitality and viability of city and town centres.

Planning authorities are recommended to carefully consider the zoning of land for any additional retail warehousing development in their areas, given the level of provision of this category of development in recent years in and around the main centres of population, the levels of vacancy in such centres and thus pressure to entertain uses inappropriate to the edge-of-centre or out-of-centre locations of many of these developments.

Section 4.4 – sequential approach

The order of priority for the sequential approach is to locate retail development in the city/town centre (and district centre if appropriate), and only to allow retail development in edge-of-centre or out-of-centre locations where all other options have been exhausted.

Out-of-Centre Sites

Where retail development on an out-of-centre site is being proposed, only in exceptional circumstances where the applicant can demonstrate **and** the planning authority is satisfied that there are no sites or potential sites either within the centre of a city, town or designated district centre or on the edge of the city/town/district centre that are (a) **suitable** (b) **available** and (c) **viable**, can that out-of-centre site be considered.

4.5 Only in cases where it is not possible, having examined in detail all the above options, to provide for the form and scale of development that is required on a site within the city/town centre, should consideration be given to a site on the edge of the city/town centre. As part of this proactive approach to facilitate the provision of an adequate supply and variety of retail facilities for the city and town, the planning authority may itself identify potential edge-of-centre sites for consideration. In this way the planning authority can guide development toward the most sequentially preferable of the edge-of-centre sites. Only in exceptional circumstances should out-

of-town sites be considered and only after the sequential approach has been applied to these sites also.

Section 4.6 - Sequential Approach and Extension – Change of Use Applications

The sequential approach should also be used to assess proposals for the extension or material change of use of existing development where they are of a scale which could have a significant impact on the role and function of the city/town centre. Such extensions will of course also have to be assessed in the context of the floorspace requirements of the development plan/relevant retail strategy where appropriate.

Through the RIA, the applicant must address the following criteria and demonstrate whether or not the proposal would:

support the long-term strategy for city/town centres as established in the --retail strategy/development plan, and not materially diminish the prospect of attracting private sector investment into one or more such centres;

have the potential to increase employment opportunities and promote economic --regeneration;

have the potential to increase competition within the area and thereby attract --further consumers to the area;

respond to consumer demand for its retail offering and not diminish the range of --activities and services that an urban centre can support;

Section 4.11.2 Retail Parks and Retail Warehouses

A retail park comprises an agglomeration of retail warehouses grouped around a common car park selling mainly bulky household goods, requiring extensive areas of showroom space, often with minimal storage requirements. There is an expectation that most of the goods purchased can be transported off-site by the customer. Home delivery services may also be available.

There are benefits to be gained in grouping retail warehouses in retail parks so that the number of trips by car are minimised. The parks are generally located at out-of-centre locations to facilitate access by car. These locations may also provide relief to congested city or town centres.

However, because the number of retail parks has grown substantially over the past decade, reaching saturation point in some areas, leading to vacancy in some cases, and also because of the blurring of the definition of the goods permitted to be sold in these parks, it is appropriate to reassess the impact of such developments. Due to the fact that the range of goods being sold from retail warehouse parks often includes non-bulky durables, there is potential for a detrimental impact on city/town centres as indicated by the increasing numbers of vacant units in urban centres where retail parks exist on the periphery. It also needs to be recognised that many bulky goods stores such as furniture retailers can and are accommodated in city and town centres.

For these reasons there should, in general, be a **presumption against further development of out-of-town retail parks.**

cause an adverse impact on one or more city/town centres, either singly --or cumulatively with recent developments or other outstanding planning permissions (which have a realistic prospect of implementation) sufficient to undermine the quality of the centre or its wider function in the promotion and encouragement of the arts, culture, leisure, public realm function of the town centre critical to the economic and social life of the community;

- cause an increase in the number of vacant properties in the primary retail area that is likely to persist in the long term;
- ensure a high standard of access both by public transport, foot and private car so that the proposal is easily accessible by all sections of society; and/or link effectively with an existing city/town centre so that there is likely to be commercial synergy.

Retail Warehouse definition: A large single-level store specialising in the sale of bulky household goods such as carpets, furniture and electrical goods, and bulky DIY items, catering mainly for car-borne customers.

6.0 The Appeal

6.1. Grounds of Appeal

- Re-utilising existing vacant warehousing premises and act as an employment generator – particularly as compared to prior sole warehousing use
- Small scale nature of proposed retail development is appropriately located in this brown field mixed-use urban location
- A sequential assessment of the proposed development in this location demonstrates the use is appropriate
- No negative impact on adjoining centres
- Inconsistent decision in context of the council's management of the mixed-use commercial district
- The proposed use is in accordance with the Z6 objective
- A five year permission would be acceptable.

6.2. Planning Authority Response

- Nothing further to add.

7.0 Assessment

7.1. Issues

7.1.1. The subject appeal relates to the change of use of a primarily warehouse use to retail/warehousing use in vacant premises in Dublin Industrial Estate approx. 4km north west of Dublin City. The issues arising from the grounds of refusal and submissions on file are based on the impact of retail type use in this 'out of centre' location both in terms of the wider retail impact and in terms of the undermining the longer term primary objective for the lands under a Z6 land-use objective. The following tests for suitability of retail uses as set out in the development plan provide an appropriate framework for assessing the issues.

- Ensure that retail development is plan-led
- Promote city/town vitality through the sequential development approach
- Secure competitiveness by aligning quality development in appropriate location

- Facilitate a modal shift towards sustainable transport access in new developments

7.2. Does this accord with a strategic plan led approach?

- 7.2.1. The retail strategy for the city is set out in Appendix 3 of the current plan and is framed within the parameters of national guidance - the most salient being the retail planning guidelines. Retailing is planned in the city, district and town and neighbourhoods centres on a hierarchical basis and the subject site given its location in a traditional industrial estate does not fall into this planned retail hierarchy. The case is made that this is a bulky household goods business and therefore falls into the category of retail warehousing and in this capacity would be acceptable and I note the planning authority treats the proposal as a retail warehouse. I consider however this to be a somewhat liberal interpretation of the definition in that, firstly, the proposed business is for lighting which is quite a transportable product type as compared to white goods and secondly the retailing area is separate to the warehousing area. As a retail warehousing activity there is some scope for siting outside of designated retail areas, however retailing by itself is limited. While retail warehousing is open for consideration as a class of use, generally, the overriding considerations relate to accordance with retailing strategy and overall strategic employment centre development.
- 7.2.2. In this case the planning authority does not consider the provision of retailing activities at this location to accord with the planned strategic development of the city. In defence, the applicant rationalises that the retail use is 'open for consideration' and is in accordance with the pattern of land use in the area and also emphasises that the use is primarily warehousing. While it is acknowledged by the planning authority that there are many retail warehouse type developments within this industrial estate it is emphasised that it has not given planning permission for retail warehousing in recent years in an effort to drive the primary permitted use in accordance with the zoning objective, that being, to protect enterprise and develop employment centres in a more office type format (as, I note, explained in section 14.8.6 of the plan.) Accordingly, there is a strategic issue in principle with consent for retailing of the nature and scale proposed. Even if the proposed layout and product type was accepted as an acceptable retail warehouse format the use

remains in conflict with the zoning objective which seeks to build and consolidate employment centres use through a more office /industry type use and not retail. I concur with the views of the planning authority in that the development of retailing use at this prominent corner site within the development would incrementally add to the established retail warehouse uses, and dominate the industrial estate uses

- 7.2.3. While a retail warehouse or warehouse with ancillary retail may be acceptable in a z6 area, however, the compatibility of such a use is predicated on adhering to the city development plan retail strategy – a strategy which is based on national guidance. Accordingly, while not directly contravening the zoning objective there is a case that it may serve to conflict with achievement of the development plan led strategic objectives. I do not however consider a refusal based a direct material contravention to constitute reasonable grounds for refusal of permission.

7.3. Does the proposal compromise promotion of the city and designated retail areas?

- 7.3.1. A sequential test approach is a means of determining if a retail development, notwithstanding zoning, would accord with the strategic development and consolidation of town centres as commercially vibrant nodes. The applicant addresses this in general terms in the grounds of appeal to which the planning authority has I note made no further specific response. The applicant rationalises the site selection on the basis of suitability, availability and viability.
- 7.3.2. It is argued that the proposed use is compatible with the zoning in this industrial estate and is therefore suitable. It is further argued that as a vacant premises it is available as opposed to premises with unsuitable premises in for example, Finglas, Glasnevin or Phibsborough neighbourhoods/villages and centres.
- 7.3.3. Retail parks are however the preferred location for retail warehousing (section 9 of the Retail Strategy in Appendix 3 of the CDP) where there is no capacity in designated shopping areas. While the applicants do in general terms refer to the absence of suitable space there is limited analysis of these or other locations. The Clearwater Retail Park (where Tesco is the main anchor) for example is about 1.5km north of the site and is dismissed on grounds of the shift to recreational use. I note that one of three units in this retail park complex is vacant – one other is a DID

electrical shop and the other is a zoo centre. There are also car related businesses. Nearby, in Finglas village where Powercity is located, also has a number of vacant units. The applicant also dismisses the vacant units as not having suitable floor plates. However, in this case the proposal is to co-locate the warehousing and the retail functions on the one site in an industrial estate when the retailing part could occupy many of vacant retail premises throughout the north city suburbs. While the applicant makes the case that the nature of the use is for bulky goods I consider a lighting shop to be at the lower end of the spectrum and is of a nature that is quite typically accommodated in a mainstream high street or shopping centre.

7.3.4. It is also noteworthy that the applicant still has to demolish and remodel the building to adapt it the proposed retail use which indicates location rather than premises is the main driver. I do not consider the applicant has made a convincing case that suitable premises, in terms of capacity, cannot not be found in a designated retail area.

7.3.5. Such a pattern of retail/warehousing consolidation in a z6 zone is I believe difficult to reconcile with the retail planning guidance at city and national level. Ultimately most retail units are stocked by separate warehousing facilities outside primary retail areas. If co-location of retail space and product warehousing were to become the norm this pattern would I consider potentially seriously undermine the viability and vitality of existing shopping areas as very few of the vacant units would be able to provide for such storage. The need for the format is not sufficiently supported in the context of retail planning guidance.

7.4. Is competitiveness secured by aligning quality development in an appropriate location?

7.4.1. The benefits of the proposal in the short term are I accept quite clear by way of the re-use of vacant premises at a prominent site is generally a positive development. The considered architectural remodelling and enhancement of an existing structure and its curtilage as clearly demonstrated in the drawings is also to be welcomed. The wider impacts in the short and longer term are however potentially quite significant for existing retail outlets and centres and I consider the planning authority to be justified in its concerns and opposition to the proposed retailing use at this location.

While the proposed use would not significantly deviate by itself from the pattern of development, as illustrated by the applicant in some 30 premises in the estate, there is the issue of incremental erosion of industrial/warehousing by retailing and displacement of retail centres through a widened landbank. While no data is provided it is generally accepted that industrial land is cheaper than main streets and shopping streets and this suggests an unfair competition were industrial lands to become freely available for retailing.

7.4.2. Arguably the environs of the site are a de facto retail park of sorts albeit unplanned as evidenced by the array of retail warehousing as mapped in the grounds of appeal (although lacking communal parking) and the case is made that this established pattern justifies more of the same. I accept that by grouping home furnishings and by co-locating multiple lighting shops within this group that this in a local context enhances competitiveness for the shopper but it is not in an appropriate location in the context of the strategic plan led approach advocated. The planning authority is criticised for the inconsistency in its management of the industrial estate by permitting retail uses but explains itself by reference to a detailed planning history, current policy for the estate and retailing throughout the city and that it has been consistent in its approach to controlling retailing. It is for example explained that the grants of permission were only temporary in view of the need to comprehensively review the land use patterns and this approach is I find supported in retail planning guidance. While I accept that the planning authority has apparently not successfully enforced the temporary permission (I refer to the closed enforcement files, continuance of retailing and statements by the planning authority) this does not condone further breaches of its policy to control retailing in this area. It is also noteworthy that the recently adopted plan emphasises the office type use in section 14.8.6 which underlines the inappropriateness of retail consolidation as a dominant rather than subordinate use.

7.4.3. While the planning authority might be open to criticism for the absence of a review of the industrial estate uses and clearer direction in achieving the objective for this transitional industrial estate on balance I consider it quite clear as set out in section 14.8.6. It might be further argued that office park or other future denser uses would ultimately displace single storey warehousing and the continuance of use with

ancillary retailing. While this may be the case on balance I consider the proposal to ultimately impact on the competitiveness of intended retail areas through oversupply.

7.5. Will a modal shift be facilitated towards sustainable transport access in new developments?

- 7.5.1. The industrial estate is strategically located in terms of access between the Finglas Road along which there is a quality bus corridor to the north east and the rail and luas lines to the southwest thereby making it well placed in terms of developing a dense employment centre as zoned. Such direction is somewhat at odds with the consolidation of a low density car based retailing centre for household goods. Accordingly, at a strategic level the proposed retail development would by itself and the precedent it would set would not readily facilitate a modal shift towards sustainable transport and would accordingly undermine the strategic land-use and transportation strategy for the city and would therefore be contrary to the proper planning and sustainable development of the area.

7.6. Conclusion

- 7.6.1. This development is only potentially acceptable as a retail warehousing use in this location. However, having regard to the guidelines which indicate that there is an overprovision of such development and a potential impact on the vitality of city and town centres and which consequently advocate for a presumption against such uses, and notwithstanding the subsequent proposal for a 5 year temporary permission, it is considered that having regard to the prevailing pattern of development and the objectives for the area that the proposed development would be contrary to the proper planning and sustainable development of the area.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the development proposed which relates to modest building works to established premises and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

8.0 Recommendation

8.1. I recommend a refusal of permission based on the following reasons and considerations.

9.0 Reasons and Considerations

It is the policy of the planning authority as set out in the Dublin City Development Plan, 2016-2022 to locate retail facilities in properly planned retail centres. This policy is in accordance with the retail planning guidelines and is considered reasonable. It is considered that the proposed retail use on a site not located in such a planned location would conflict with this policy. Furthermore, the proposed development would conflict with the objective to develop the area as an employment centre in accordance with strategic direction set down in section 14.8.6 of the current Dublin City Development Plan. It is therefore considered that the proposed development by itself and by the precedent it would set for similar such proposals would, be contrary to the proper planning and sustainable development of the area.

Suzanne Kehely

Senior Planning Inspector

6th March 2017