



An
Bord
Pleanála

Inspector's Report PL29S.247619.

Development	Change of Use of a former bingo hall into a retail store and new access at Blackditch Road.
Location	363 Ballyfermot Road, D 10.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3246/16.
Applicant(s)	Tom Kavanagh (as receiver).
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	1.Thomas Kearney 2.Siobhan Kearney O' Malley.
Observer(s)	J & D Stores Ltd.
Date of Site Inspection	24 th of February 2017.
Inspector	Karen Hamilton.

1.0 Site Location and Description

- 1.1. The subject site is a two storey bingo hall facing onto the main Ballyfermot Road, D10. The site is located along a main road which forms part of the Key District Centre of Ballyfermot and there is a shop unit and a takeaway on the ground floor within the same building. Ballyfermot District Centre radiates east of the site approx. 400m and further west approx. 300m and includes a range of retail, residential and community uses. There are currently two supermarkets to the far east of the District Centre, occupied by Tesco and Iceland.
- 1.2. The site extends to the rear at Blackditch Road and it is surrounded by 2m high palisade fencing. To the rear and south of the site is a carwash and wasteland with access from Blackditch Road, and a pedestrian walkway between the rear and Ballyfermot Road.

2.0 Proposed Development

- 2.1. The proposed development may be summarised as follows:
 - Change of use of the ground floor from bingo hall to retail store (1,212m² gross) and amendment to shopfront.
 - Construction of new access from Blackditch Road.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission, Conditions of note include:

- C 3: No additional advertising signs without a separate planning permission.
- C 4: A new entrance shall be provided at Blackditch Road. Servicing of the site by delivery vehicles shall occur from Ballyfermot Road.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission following the submission of further information on the following:

- Information on the land ownership over part of the proposed access to the rear and detailed design for the access.
- Information on the servicing of the site including the times and turning areas for delivery vehicles.
- Information and compliance with the shopfront design guide.

The planner's report refers to the location of the site within the Ballyfermot District Centre, the need for a retail impact assessment and the impact of the proposal on the surrounding area.

3.2.2. Other Technical Reports

Drainage Division- No objection to proposal.

Roads and Traffic Division- No objection to proposal.

3.3. **Prescribed Bodies**

None received.

3.4. **Third Party Observations**

Four observations were received by the planning authority and the issues raised are summarised in the grounds of appeal.

4.0 **Planning History**

4554/04

Permission granted for the construction of 97 no apartments, bingo hall, bar, 8 no retail units with part 5 storeys and part 11 storey tower element with new public street from Ballyfermot Road to Blackditch Road.

5.0 **Policy Context**

5.1. **Guidelines for Planning Authorities- Retail Planning (2012)**

- Chapter 4: Retailing and Development Management.
- Chapter 5: Retailing and Design Quality

5.2. Dublin City Development Plan 2016-2022

The site is zoned as Z4 where it is an objective “*to provide and improve mixed-service facilities*”. Shop (district) and shop (neighbourhood) are both identified as permissible uses. A high quality built environment is required from new developments.

Retail

Key District Centre 5: Ballyfermot.

- Objective SC 10: Support Key District Centres (KDC5). These centres represent the top-tier of urban centres outside the city centre and provide strong spatial hubs with commercial and community centres.
- Appendix 3: Retail Strategy. District Centres have the capacity for greater capacity for retail for centres in proximity to quality public transport. A supermarket is defined as < 2,500m² net serving a catchment of 3,000-5,000 people and often typical of a “*neighbourhood shop*”.
- The Retail Strategy for the Great Dublin Area 2008- 2016.

Transport and Access

- Policy MT01: Integrated transport where the intensification of mixed use development is encouraged along transport routes.
- Policy MT12: To improve pedestrian environment and promote the development of pedestrian routes which link residential areas with recreational, educational and employment destinations to create a pedestrian environment that is safe and accessible to all.
- Section 16.38 Car parking Standards: Zone 2 standards will apply to Key District Centres as these areas are a focus for integrated land-use and transportation and allow higher densities.

- Table 16.1: Car parking Standards.
Zone 2 Supermarket > 1,000m² GFA: 1per 100m² GFA.
Zone 2 Other retail: 1 per 275m² GFA.

Shopfront

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

Dublin City Council's Shopfront Design Guidelines.

- Fascia signage: Only the name and street number of the shop should be on the fascia panel. Box signs are unacceptable and individually mounted letters are appropriate and should not be greater than 40cm. Illumination shall be discreet.
- Security Shutters: Roller shutters shall be located behind the window display.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted from an existing tenant adjacent to the bingo hall and another interested party. The issues raised may be summarised as follows:

- The site has been in use as a community facility for over 35 years and the loss of this use would be detrimental to the regeneration of Ballyfermot and a long lease of (30years) will have not allow the Local Environmental Improvement Plan (LEIP).
- The new use will not have access to the parking to the rear.
- The area of the new access at Blackditch Road is a residential area.
- The application is not valid and does not comply with the Planning Regulations as there is no letter of consent from the owner and the receiver is not authorised to submit an application.

- No fee was submitted with the application as the applicant refers to a fee held in the planning office with a previous invalid file.
- The proposed development fails to take into consideration current uses around the site and the use in the upper floors (587m²) must also be taken into consideration.
- It is requested that the application is deemed invalid based on the consent, fee and the failure to refer to the current and proposed use.
- The change of use is substandard development, the current building has asbestos, the narrow front entrance will not add value to the public realm.
- The applicant has no control over adjoining building or lands and therefore cannot redevelopment the site in an appropriate manner for the benefit of public realm or permeability.
- The proposal to retain the security screens on the façade is against the Shopfront guidelines and does not contribute to the streetscape.
- The use of the upper floors will be ancillary to the main retail as there is not access and the mono use will be contrary to the zoning.
- The local authority is clearly not happy with the submitted information on the access and parking and condition No 4 is not satisfactory.
- The absence of any parking for the proposed development is a traffic hazard.

6.2. Applicant Response

An agent on behalf of the applicant has submitted a response to the grounds of appeal which may be summarised as follows:

- The argument that there will be a loss of community facilities is incorrect as the proposed development will provide a use to a building which has been vacant since 2014 and the change of use is consistent with the objectives of the Key District Centre.
- The grounds of appeal require the bingo hall to be integrated into the masterplan but the site is not included within any designated objective.

- The majority of premises along the Ballyfermot Road do not have designated parking.
- There is no servicing of the site proposed along Blackditch Road (new access) instead the deliveries have been conditioned from Ballyfermot Road.
- Pay and display parking is available along the Ballyfermot Road.
- The legal deed of appointment entitles Mr Kavanagh to all legal rights to lodge an application.

6.3. Planning Authority Response

No response was received.

6.4. Observations

One observation was received from a retail unit to the east of the subject site and may be summarised as follows:

- The proposed development should be refused on parking grounds as it fails to comply with Table 16.1 and the provision of 40 spaces. The site is located in Parking Zone 3.
- The case planner calculated the parking requirement as “*other retail*” with 1 space per 75m² (16 spaces). This is a standard convenience store and Section 4.11.1 of the Retail Guidelines apply.
- Reference to the Aldi store (PL29S.239300) and comparison stores.
- There is currently significant double parking in the vicinity during the day and the bingo hall is only for evening use.
- Condition No 4 restricts the servicing of the site from the Ballyfermot Road on a bus layby which is substandard. Two deliveries per week is an underestimate.
- The proposed development is contrary to the Z4 zoning, Section 16.24.2 of the shopfront and Policy RD15 for a high quality design and finish and the Dublin Shopfront Design Guidelines.

- The proposed development should comply with the Retail Planning Guidelines and “*shopping centres*” in particular the retail health checks for accessibility and environmental quality. The quality and quantity of carparking has not been provided and the low quality of finish does not support good urban design or any shopfront design guidelines.

7.0 **Assessment**

7.1. The main issues raised in the grounds of appeal may be summarised as follows:

- Procedural Issues
- Principle of development
- Retail Impact Assessment
- Access and Traffic
- Shopfront and Signage
- Appropriate Assessment

Procedural Issues

7.2. The grounds of appeal argue the planning application should have been deemed invalid on the basis that the receiver did not have enough legal interest, there was insufficient information on the current and proposed use and the fee was not submitted at the same time the application was lodged with the planning application. The grounds of appeal request An Bord Pleanála to dismiss this appeal. I note the receiver advertised their interest in the development description and there was no submission from any other party claiming ownership of the site. Also the development description and submitted plans refers to a change of use of the current building from a bingo hall to retail, which I consider is correct. In relation to the fee, it is noted the planning authority were holding a fee from a previous invalid permission which I consider is a procedural issue. Therefore, based on the information which was available to the public in the form of the public notices and the planning application I consider An Bord Pleanála should not dismiss the proposed development as invalid.

Principle of development

- 7.3. The proposed development includes a change of use from a bingo hall to retail, 1,212m² gross, a new access along Blackditch Road and associated works including shopfront signage. The site is located within the Ballyfermot Key District Centre (KDC) identified in the development plan as the spatial centre for commercial and community uses to support the growth of Ballyfermot. The Z4 zoning of the site includes an objective to provide and improve mixed uses services and facilities, a range of permissible uses are acceptable including retail. The grounds of appeal argue the proposed development, and the loss of a community facility, would be contrary to the zoning on the site and therefore a material contravention of the development plan. In addition, it is stated that the proposed development would not comply with other objectives and policies relating to Masterplanning and Environmental Improvement of Ballyfermot.
- 7.4. I have assessed the policies and objectives of the development plan and I consider the Z4 zoning on the site and the objective for the Key District Centre allow for the retail development on the site. Section 2.2.8.1 of the development plan refers to the preparation of a Local Improvement Plan or Village Improvement Plan for Ballyfermot in the future. In relation to the argument for compliance with the masterplan, there is no specific policy requiring this site to be retained for inclusion in an overall development or mixed use scheme. Therefore, subject to complying with other planning requirements as addressed in the following sections, the principle of the proposal is acceptable.

Retail Impact Assessment

- 7.5. Ballyfermot is identified as a Level 3 District Centre in the Retail Strategy for the Greater Dublin Area (2008-2016), and the current development plan, which allows a growth of the retail floor space to 20,000m² (gross). The report of the area planner notes the existing retail provision in Ballyfermot is approx. 4,500m², allowing proposals for additional retail floorspace in the district centre.
- 7.6. Section 4.11.1 of the Retail Planning Guidelines define large convenience shops as those which allow for the weekly convenience goods shopping of households and can normally include a range of comparison goods also. The grounds of appeal argue the proposed development should comply with the criteria for “*shopping*”

centre” in the Retail Planning Guidelines. The proposed development refers to permission for “retail” and the submitted plans do not imply any other use other than large convenience goods. This type of retail is referred to as super market or neighbourhood shop in the current development plan. I consider the proposed retail development is for a supermarket.

- 7.7. Section 4.9 of the Retail Planning Guidelines refers to the submission of a Retail Impact Assessment (RIA) where it is considered that there is a need to demonstrate compliance with the development plan and ensure no unacceptable adverse impact on the vitality and viability of the existing centre. In addition, the Retail Impact included in the development plan states the sequential test should be applied where a retail development over circa 2,000m² is proposed outside a Z4 (district centre) zoning. As detailed above in Section 7.4 and 7.5 the principle of a retail development of this size in an established district centre is acceptable and therefore as it complies with the development plan. In relation to the vitality and viability, I consider the proposed use will retain an increased footfall along this section of the Ballyfermot district centre and I have addressed the impact of the public realm below in Section 7.11, which I consider acceptable.
- 7.8. Therefore, having regard to the size, 1,212m², of the retail unit and the location within an existing district centre I do not consider the submission of a Retail Impact Assessment necessary, nor do I consider the application of the sequential test necessary.

Access and Parking

- 7.9. The proposed development includes a new access into the site from Blackditch Road to service the retail use. Following the submission of further information on ownership of lands between the public road and subject site, a detailed layout of the proposed vehicular access and appropriate site lines and information on the proposed deliveries, the Roads Section recommended a grant of permission subject to the inclusion of Condition No 4. The grounds of appeal argue the inclusion of Condition No 4 is not sufficient to prevent a traffic hazard and there is insufficient car parking on the site leading to an increase traffic congestion along the busy Ballyfermot Road. I will deal with these issues separately below.

- 7.10. Car parking: The proposed development does not include any additional parking on the site. Table 16.1 of the development plan refers to the location of Key District Centres within Zone 2 and parking standards of 1 per 100m² GFA for a Supermarket > 1,000m² GFA and 1 per 275m² GFA for Other Retail, are applicable. The grounds of appeal argue the rate of parking should be calculated at the higher rate of “Supermarket” with a requirement for 40 parking spaces. It should be noted that change in development plan standards in the recently adopted Dublin City Development Plan. The planning authority applied a rate of 1 per 75m² as “*other retail*”. As stated above in Section 7.6, I consider the proposal is a supermarket although based on the new standards (1 per 100m² GFA) 8 parking spaces are required. I note the report of the Roads Section accepted the use of the unrestricted pay and display parking along the main Ballyfermot Road for the required 16 parking spaces.
- 7.11. It is evident from site inspection the parking for the majority of the current retail uses within the Ballyfermot neighbourhood centre are centred on street pay and display parking. The Tesco retail unit at the east of the site on the opposite site of the junction has onsite parking. The development plan promotes the reduction of parking spaces at district centres with good public transport links, and there is a bus stop directly to the front of the subject site along the main road to the city centre. Therefore, based on the current provision of on street parking, the policies of the development plan for integrated transportation and the location of the bus stop, I consider the use of pay and display parking for an additional 8 parking spaces is reasonable.
- 7.12. Access: It is proposed to use the new access along the Blackditch Road for the delivery of goods to the proposed retail unit. Condition No 4 requires that all HGV deliveries are via the main Ballyfermot Road (R833) as the proposed access from Blackditch Road cannot provide sufficient turning areas or sightlines for large vehicles. In addition, it requires the submission of further details for the entrance at Blackditch Road. The grounds of appeal argue the use of Ballyfermot Road for HGV delivery will lead to traffic congestion as the area to the front is currently used for a bus stop. I note the report of the Roads Section had no objection to the use of the rear access, along Blackditch Road, for smaller vehicles.

- 7.13. In relation to the delivery of HGVs along the Ballyfermot Road, I note the location of the current on street pay and display parking to the east and an extended footpath for the bus stop directly to the front for the sites along the Ballyfermot Road. I do not consider there is sufficient space along this section of the Ballyfermot Road to accommodate delivery of large HGVs. Therefore, I consider the parking of large HGV vehicles along the main Ballyfermot Road would cause traffic congestion and interrupt the free flow and movement of traffic along this regional road.
- 7.14. The applicant has failed to address a request for further information requesting detailed engineer drawings for the new entrance along the Blackditch Road. As stated above, Condition No 4 requires the submission of details for the new entrance for the approval before commencement of development. The submission of further information does not provide any clarity on the land ownership details between the public road and the rear of the subject site and I do not consider the applicant has submitted evidence of sufficient control over this portion of lands for access. The applicant has also failed to submit details in relation a further information request for detailed drawings of the proposed entrance to the site from Blackditch Road, therefore the use of any access is unacceptable and I do not consider the use of condition No 4 is acceptable to ensure the provision of an appropriate new access.
- 7.15. Based on the failure to provide any design details for the proposed access along Blackditch Road and the unacceptable use of the Ballyfermot Road for delivery vehicles, I do not consider the proposed development can accommodate deliveries to the site. Therefore, I consider the proposed development would lead to traffic congestion and cause a traffic hazard.
- 7.16. Pedestrian Access: The lands to the east of the site and rear of retail units along the Ballyfermot Road, accessed from Blackditch Road are stated to be within the control of the applicant. This site is currently used for a carwash and a section along the subject site is used as a pedestrian link between Blackditch Road and Ballyfermot Road. I consider it important to retain permeability for the residents along Blackditch Road. Should the Board be mindful to grant permission, I consider it reasonable to include a condition requiring the retention of the current pedestrian link and integration into any future development.

Shopfront and Signage

7.17. The proposed development includes amendments to the existing façade for new lettering along the fascia panel, retention of existing steel grills and removal of the existing “snooker room” box sign on the first floor of the façade. There are currently two large advertising signs on the first floor, not included as part of the proposed development. The existing signage on the surrounding units comprise of standard fascia panels. Chapter 5 of the Retail Guidelines require the design of the new shopfronts to contribute to the public realm and respects the character of the surrounding area. In addition, guidance in the Dublin City Council’s Shopfront Design Guidelines require individual letters and does not accept box signs and security shutters on the outside. I consider the proposed lettering and discreet illumination, is in compliance with signage guidance and acceptable to enhance the public realm along this section of the Ballyfermot District Centre. The company details of the retail occupant have not been submitted although I consider it reasonable they are submitted for agreement to the planning authority. I note the applicant proposes to retain the external security grills although I consider these are not in keeping with the shopfront guidance nor do they contribute to the streetscape along the Ballyfermont Road. I consider it reasonable to condition the inclusion of internal security shutters.

Appropriate Assessment.

7.18. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest European site, 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 or projects on the conservation objectives of any European site.

8.0 Recommendation

8.1. It is recommended that the proposed development is refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations

It is principally proposed to service the proposed retail use from the Blackditch Road with HGV deliveries using the Ballyfermot Road. The proposed access into the rear of the site from the Blackditch Road cannot be satisfactorily achieved and the area to the front along the Ballyfermot Road has no designated layby and is in close proximity to a bus stop. On the basis of the information provided, the Board is not satisfied that the proposed development can be adequately serviced and it is considered that the proposed development would endanger public safety by reason of traffic hazard and would result in serious traffic congestion. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Karen Hamilton
Planning Inspector

27th of February 2017.