



An
Bord
Pleanála

Inspector's Report PL29S.247686

Development	Change of use as a food takeaway premises, new door and vent to be discharged at roof top level.
Location	Reuben House, Reuben Street, Dolphins Barn, Dublin 8
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3729/16
Applicant(s)	Marc Godart
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Iain Willis
Observer(s)	None
Date of Site Inspection	15 th of March 2017
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1.1. Reuben House is a mixed use development off Reuben Street in Dublin 8. The site comprises a ground floor corner unit within the six storey Reuben House with frontage to Reuben Street and the rear of the site faces Reuben Square. The South Circular Road is to the south and Reuben Street adjoins Dolphin's Barn Street to the east. The mixed use primarily residential apartment development of the taller building Earls Court faces the site and is on the opposite side of the junction of Reuben Street and Dolphin's Barn Street.
- 1.1.2. While Reuben Street is characterised by two storey red brick houses, the south eastern end at its junction with Dolphin's Barn/Cork Street, is characterised by more modern mixed use, primarily residential structures. Within the broader area mixed use development includes the adjacent Spar, and further away Lidl & Tesco, local schools, churches, The Coombe Women's Hospital, St. James Hospital, Luas & Dublin Bus, Rialto Village local shops, recreational facilities as well as the nightlife, bars & restaurants in the Liberties & Christchurch and Newmarket Square.

2.0 Proposed Development

- 2.1. The development consists of as described in the Public Notices, the change of use from retail to use as a food take-away premises, of the 35sq.m left-hand side, corner ground floor unit. The unit is to have a new entrance door off Reuben Street. The extractor vent is to be ducted up the exterior of the rear wall and discharge at roof-top level. Refuse disposal is to be provided for in the basement of the Reuben Square development.
- 2.2. A Site Layout Plan, Floor Plans, Sections and Elevations have been submitted. This shows the ground floor area of the corner unit outlined in red.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 10th of November 2016, Dublin City Council, granted permission for the proposed development subject to 10.no. conditions. Many of these relate to infrastructural and construction issues. The following are of note:

- Condition no.2 – Provides restrictions on the operation of the development including opening hours.
- Condition no.3 – Provides restrictions on advertisements.
- Condition no.6 – Has regard to the control of noise at construction and operational phases.
- Condition no.7 – Provides for a scheme relative to the control of fumes and odours.
- Condition no.9 – Relates to waste management issues.
- Condition no.10 – Relates to refuse storage facilities.

3.2. Planning Authority Reports

3.2.1. Planner's Report

This had regard to the locational context of the site, planning history and policy and to the submissions made. This notes that the proposed development would involve the provision of an additional takeaway restaurant in an inner city area and provides a list of such uses in the immediate vicinity. It has regard to planning policy relative to takeaways in the DCDP 2016-2022 and notes the subject site is not proximate to a school. It notes that the proposed development includes the provision of a ventilation system for a 'takeaway' use in a mixed use building and considers that this would not have an adverse visual impact. The Planner considered that the proposed change of use of an existing, mixed use structure from the approved ground floor retail use to takeaway use is acceptable in principle. Also that it would be unreasonable to consider the provision of a small takeaway facility at Reuben

Street as creating an excessive number of takeaway facilities. They recommended that permission be granted subject to conditions.

3.3. **Other Technical Reports**

Engineering Department – Drainage Division

They have no objections subject to compliance with standards and recommended conditions.

3.4. **Third Party Observations**

A number of Submissions including signed Petitions have been received from local residents and also from local Councillors, whose concerns include the following:

- There is already a high concentration of takeaways in the general area, this will worsen this situation.
- It would impact adversely on parking and traffic in the already congested area.
- Contrary to planning policy relative to takeaway usage in the DCDP.
- It would impact adversely on the residential character and amenities of the area – proximate to the Z1 residential area.
- The proposed site is centrally located to three school hubs.
- Leading to Anti-Social Behaviour and Litter.
- Noise and Ventilation issues.
- Disposal of Fats/Oil/Grease from the usage.
- Will place significant pressure on local resources including relative to drainage issues.

4.0 **Planning History**

- 4.1.1. The Planner's Report provides details of the Planning History relative to Reuben House. The site forms part of a larger site where permission (Reg.Ref.2768/99) was granted by the Council for a large scale mixed use development. This was largely

residential/office uses, with retail uses at ground floor level. Other permissions include the following:

- Reg.Ref.1031/02 (ABP ref.no. PL29S.200084) – permission refused for modifications to previously permitted development (Reg.Ref.2768/99) to include change of use (Block A) of offices to apartments.
- Reg.Ref.1117/04 (ABP ref.no. PL29S.206750 split decision) refers to another such decision relative to change of use from offices to apartments.

It is noted that there has been a trend within the Reuben House development for change of use from commercial to apartments on some of the upper floors within the blocks. The most recent applications concern this issue or the proposed densification of the apartments. None of these recent permissions appears to be particularly relevant to the subject site or proposal.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

As shown on Map F, the site is within the Z4 (District Centres) land-use zoning, where the objective is: *To provide for and improve mixed-services facilities.*

Section 14.8.4 includes: *To maintain their role as district centres, new development should enhance their attractiveness and safety for pedestrians and a diversity of uses should be promoted to maintain their vitality throughout the day and evening.*

Permissible Uses within the Z4 zoning include retail shops and 'Takeaways'.

Section 16.24 refers specifically to Takeaways and to controls relating to and to avoid an over-proliferation of such. This provides that 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.

Section 16.10.20 refers to Development on Archaeological Sites and in Zones of Archaeological Interest.

The following policies and objectives are referred to by the Third Party

Section 9.5.8 refers to control of and mitigation measures relative to noise pollution. This includes: Policies SIO26 - *To protect residents of mixed-use developments from noise emanating from other uses such as shops, offices, nightclubs, late night busking, public houses and other night time uses through the planning system.*

SIO27: *To give careful consideration to the location of noise-sensitive developments, including the horizontal and vertical layout of apartment schemes, so as to ensure they are protected from major noise sources where practical.*

Section 12.5.1 refers to A Good Urban Neighbourhood. This includes:

Policy SN2: *To promote neighbourhood developments which build on local character as expressed in historic activities, buildings, materials, housing types or local landscape in order to harmonise with and further develop the unique character of these places.*

Section 7.6 refers to Retail Policies and Objectives. This includes Policy RD9 i.e.

To safeguard the health of young people that no further fast food outlets shall be permitted within 250m of primary and secondary school, (not to apply to delicatessen and convenience stores), unless an evidence based case is made by the applicant that the proposed development would be in the interests of the proper planning and development of the area.

Policy RD11 seeks: *To promote and facilitate the provision of accessible good quality convenience shopping that will engender competition and service all areas of the city, particularly with regard to the inner city.*

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Iain Willis who is a local resident residing in Reuben Street has submitted a Third Party Appeal. The grounds of his appeal include relative to the following issues:

Damage to residential amenity for the residents of Reuben House/Square.

- No concrete conditions have been included in the Council's permission relative to controlling/mitigating impact of the proposed usage on the residential amenity of adjoining properties.

Damage to residential amenity for the residents of Reuben Street.

- The use of the property as a takeaway introduces an unwelcome element by reasons of the use is likely to result in noise, disturbance, litter, and nuisance to the detriment of the neighbours residential amenity.
- It is contrary to planning policy and in particular noise related objectives SIO26 and SIO27. Also relative to Policy SN2 which promotes good neighbourhood development.
- The proposal could lead to vehicles parking on the pavement/road to the detriment of other road users and emergency vehicles.
- It will detract from the character and residential amenities of Reuben Street.

- This has the potential to damage the residential amenity and neighbourhood in which it is situated. They refer to the Council's *Environmental Improvement Plan* in this regard.

Proximity to educational facilities

- They enclose 2 maps i.e a map showing the location of the local Primary and Secondary Schools and a map showing the existing takeaways in operation at the moment. They also quote policy RD9 relative to takeaways and health and note concerns about obesity among school children. They consider that it is not good planning to allow for such a development.

Over intensification of takeaways in the area.

- DCC through their retail strategy seeks to provide balanced retail shopping particularly in the inner city. In this respect they refer to Policy RD11 which seeks to promote such balance.
- The oversupply of takeaways is to the detriment of the retail strategy and the area.

Damage to the urban design of the area.

- Reuben Street is a late Victorian Street with a neighbourhood village character.
- This proposal will have an adverse anti-social impact on the amenities of the area.
- They are concerned that the floor area of the unit be clarified.
- They consider that this sets a dangerous precedent for the area.

Incorrect process in determining the original application.

- Lack of identification of existing takeaways to determine the true volume and nature of use in the area.
- The proposal has been identified as 725sq.m, when outlined in red it is 35sq.m. in the written documentation.
- Lack of conditions to control operational management and anti-social issues.

- This proposal will add to the significant litter from other retail premises in the area.
- They note that the local community in conjunction with DCC has set up a local community garden 'Flanagan's Fields' on Reuben Street where fresh fruit and vegetables are grown. This adds to the community and not takeaways.
- The proposed takeaway is best suited to a village not to a residential street where many residents are opposed to it. (They include copies of petitions).
- They note that they would not have a problem with ground floor apartments.
- They ask the Board to refuse this permission, but if they decide to grant they ask that strong conditions be included to protect residents both in the apartment building and on Reuben Street.

It is of note that the Third Party requested an Oral Hearing relative to this proposal. The Board in their response subsequently refused to hold an Oral Hearing and requested that the file be dealt with by the written procedure only.

6.2. Applicant Response

- 6.2.1. Edward Fitzgerald Selby, Architect has submitted a response on behalf of the Applicant, this includes the following in response to the Third Party headings:

Damage to residential amenity for the residents of Reuben House/Square

- No resident of Reuben House/Square has objected. This is a mixed use development and the applicant is taking a suburban view of the area.

Damage to residential amenity for the residents of Reuben Street

- No other residents in Reuben Street have objected. This end of the street at the junction is a mixed use development. Thus Reuben Street is in mixed use.

Proximity to education facilities

- The proposed development is not adjacent to any educational facilities. As a dense urban context it is proximate to many diverse uses as shown on the appellant's maps.

Over intensification of supply of takeaways in the area.

- The proposed scheme would be the first and only eating outlet in Reuben Street. There is no restaurant or takeaway between the corner of Reuben House at Cork Street and the Fatima LUAS stop at St. James Hospital, despite the number of pedestrians that use this street daily.

Damage to the urban design of the area.

- They note the residential and urban nature of Reuben Street. They consider that while allotments are a good thing, if takeaways are a threat to urban design then so are allotments.
- Diversification is as essential a component to urban design as physical buildings.

Incorrect process in determining the original application.

- They reject the applicant's comments in this regard.
- There is no contravention of Development Plan Standards in the Local Authority Grant of Permission.

Takeaway

- It is their client's intention to let this unit to a good quality offer.
- The immediate neighbourhood of the proposed development are currently forced to look towards the city centre for food diversity.
- It is intended to provide high quality takeaway food as a real alternative to more expensive sit-down offerings.
- They want to cater for the lunch time market in particular.

Traffic

- The area is well connected to public transport links and there would be a very limited impact on traffic in the area.
- Residents in Reuben Square tend to use the underground parking area.
- While there is dis-orderly parking in front of the Spar shop i.e parking on the pavement it cannot count as a valid reason to refuse planning permission for

the adjacent premises which does not offer the possibility of pavement parking.

- They note that there is parking on Reuben Street and include photographs showing parking in the area.

Conclusion

- They contend that location wise this unit is uniquely suited to the proposed use without harming its immediate environment.
- They provide details of the proposed ventilation system and note that it will not impact on adjoining properties.
- The proposed waste management is a facsimile of the that used by the Spar shop in the Reuben Square basement which is effective and works well.
- The opening hours could be reduced to 10.00pm which has been found to be a generous enough closing time. This would be in line with the Spar Shop.

6.3. Planning Authority Response

There has been no response from Dublin City Council to the grounds of appeal.

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. The application site is within the Z4 Mixed Use Land Use Zoning, where takeaway and retail uses are permissible. Concerns have been raised that this type of use is inappropriate in this location considering the character of the two storey residential properties in Reuben Street and the number of residential apartments in Reuben House and Earl's Court development on the opposite side of the road. Also it is noted that there are already several other such uses in the greater locality and there is concern that the proposed use will lead to a proliferation of takeaways to the detriment of the residential amenities of the area and to provision of other ground floor uses such as retail in the Z4 mixed use area. As such there is concern that the proposal would be in contravention of the criteria in Section 16.24 of the DCDP 2016-2022 i.e. *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.

- 7.1.2. In response the First Party considers that there is a lack of takeaway use in the immediate area to offer variety to serve local residents and passing trade and consider that this would be a viable use that would be appropriate to the site location and would not be detrimental to the amenities of the area. Regard is had in the Assessment below to the issues raised and to the appropriateness of the subject site relative to the proposed change of use.

7.2. Regard to Current Use

- 7.2.1. Reuben House is a 6 storey mixed use development, with commercial and retail on the ground floor and primarily residential on the upper floors. The trend towards conversion of the upper floors to apartment development has been noted relevant to the planning history section above. The subject unit is currently vacant. There is no former shopfront and it does not appear to have been previously in use as a retail unit. There is signage on the front windows 'Baby and Buggie.ie', however there was no sign as to what this concerns.
- 7.2.2. The frontage of the unit faces Reuben Street and there is a courtyard area to the rear. There are currently two windows in the frontage and it does not have its own separate entrance. The double door entrance in the adjoining frontage provides access to the lobby area and to the commercial and residential above. Therefore, the 'existing ground floor' layout shown on the plans is in fact the 'proposed' layout for the subject proposal. It is of note that existing floor plans have been submitted showing offices on first and second floors and apartment units on third, fourth and fifth floors. There is an elevator to the rear of the subject unit and a stairwell accessed via the lobby to the upper floors.

7.3. Regard to Proposed use

- 7.3.1. The proposals involve a change of use of part of the ground floor and the provision of an entrance door off Reuben Street at ground floor level. It is considered beneficial that the unit would have a separate entrance and be distinct from the lobby area of the main building. The issue is however that the unit does not have a shop

front relative to for example the adjacent Spar premises which faces Dolphin's Barn. Rather it appears as part of the commercial element with a similar frontage to the offices above. It is noted that this Spar unit includes a Post Office, Subway, Insomnia café with seating and takeout element.

- 7.3.2. The Third Party has sought clarity as to the size i.e floor area of the proposed unit. Regard is had to the application form which provides that the floor area of buildings proposed for retention within the site is 725sq.m and in Section 8, the floor area of the unit proposed for the change of use is given as 35sq.m. It is noted that there is a slight disparity in this as it is shown on the ground floor plan as 37sq.m.
- 7.3.3. The First Party response provides further details on the type of takeaway use envisaged. This notes the trend towards high quality takeaway food that is prepared by a real chef for passing lunch time customers as well as local residents. However, it is noted that a ventilation system is included, so it is envisaged that hot cooked food will be prepared and served on the premises.

7.4. Ventilation/Extraction issues

- 7.4.1. The application makes no substantial reference to the ventilation system to be in place for the proposed takeaway use. Also that it doesn't specify how their proposed system will impact on the residential amenities of adjoining occupiers who reside in the building. It is noted that currently there is a ventilation system in place for office and retail uses which would be inadequate for the more intense use that the applicants will require. There is concern that increased noise from ventilation units and emanating smells, would reduce the current residential amenities.
- 7.4.2. The description of development, provides that the extractor vent is to be ducted up the exterior of the rear wall and discharge at roof-top level. No specific details have been submitted with the application as to the nature of the system. However, the First Party response provides that fumes are proposed to be vented at roof level and cleaned by filters. Also that the height of the exhaust pipes would be one floor above the next highest block of Reuben Square and above the adjacent Ice Rink apartment block.
- 7.4.3. The new duct pipe is shown on Section A-A and on the West (Rear) Elevation. As shown on the front elevation, it will only be slightly visible above the roof of the 6

storey block from Reuben Street. Therefore, it will not impact much on the public realm. However, it will be very visible in the context of the rear elevation for proximate residents of Reuben House, both from the rear courtyard area and from the apartments alongside and facing at the rear. In this respect, in view of the proximity of the proposed duct to rear balconies and windows, I would consider that it will not add to their visual amenity. Regard is also had to Section 16.24 of the DCDP 2016-2022 which refers to: *The need to integrate the design of ventilation systems into the design of the building.*

7.4.4. However, if the Board decide to permit I would recommend that a condition regarding ventilation be included.

7.5. Waste Management issues

7.5.1. The application states that the proposed refuse disposal is to be provided in the basement of the Reuben Square Development. There is concern that this is primarily a residential apartment development and that the storage of commercial waste within the basement will have a negative impact on the residential amenities due to odours and noise of refuse storage and collections. It is provided that the refuse trucks do not access the basement due to height restrictions and that they park on Reuben Street, with engines running and that the refuse is wheeled up to ground level. Also, that the inclusion of commercial waste from the takeaway use will have a negative impact on the residential amenities due to odours and noise of refuse storage and collections.

7.5.2. It is noted that the application does not contain details of how they intend to dispose of Fats/Oil and Grease in accordance with current standards. This includes that conditions have not been included regarding fat traps or the management of cooked food disposal. There is concern in regard to the management of vermin and the need for frequent collection for the takeaway use.

7.5.3. Litter is another concern relative to the proposed usage and how this is supposed to be properly managed. Litter bins would need to be provided.

7.5.4. In response the First Party provides that the waste treatment proposed is a facsimile of the waste management of the Spar shop in the Reuben Square basement which is effective. Precautionary measures to store the bins in appropriate locations are

taken in accordance with the Reuben Square Management Company as for the other commercial units in the building. They provide that the proposed takeaway would seamlessly join the waste disposal chain of the greater development. The Basement Plan shows in red: *lidded refuse bin shown hatched and located in this parking space*. It is considered that rather than taking up a parking space, the bin should be included in a defined secure bin storage area, and details of such should be submitted.

- 7.5.5. In this respect the Council's Condition nos. 9 and 10 are noted relative to waste management, bin storage and refuse facilities. It is recommended that if the Board decide to permit that similar type conditions, along with a condition regarding disposal of litter be included.

7.6. Traffic and Parking

- 7.6.1. There is concern that the proposed usage will impact adversely on traffic and parking in this already congested area. This includes problems with customers parking on double yellow lines and the footpaths in order to enter the takeaway and adjoining Spar. It is noted that Reuben Street is narrow and there is concern that existing on street parking for residents will be impacted. On site it was noted that some short term parking occurs on the footpath at the corner adjacent to the Spar and the subject premises where customers pull off the Dolphin's Barn Road. This is not desirable as it leads to traffic congestion at this junction.
- 7.6.2. There is limited availability pay and display parking on the opposite side of the road. The First Party response provides that underground parking spaces for the apartment dwellers are abundant, and that hence parking in Reuben Street is plentiful at most times. The entrance to this carpark is within the Reuben House frontage further up the street. It is noted that two parking spaces for the takeaway staff are shown to be provided in different locations in the basement parking area. As shown on this plan the proposal would take up three car parking spaces i.e one of the spaces proposed for the lidded refuse bin. It is not known how this will affect existing users.
- 7.6.3. They also note the unorderly parking that occurs in front of the Spar shop where customers commonly park their cars on the pavement in front of the shop in order to

avoid entering the narrower lane that is Reuben Street. Regard is had to the distance to the nearest pay and display machines and this is a matter relative to the lack of enforcement. It is considered that this is a matter for the appropriate traffic enforcement authorities, however, it is important that the current proposal would not worsen congestion at this corner proximate to the junction.

- 7.6.4. There is concern that this parking situation would be worsened by a takeaway use, which by its nature is a short term destination. The Third Party who resides in the more traditional two storey houses further down the road is concerned that this usage will impact adversely on Reuben Street which is a narrow single lane, two-way residential street with parking on both sides. However, while traffic management is an issue, it must also be considered that this is an area close to public transport links and that some of the custom maybe for local residents who would walk to the venue.

7.7. Hours of Opening

- 7.7.1. Concerns have been raised about noise, anti-social behaviour and hours of opening. Section 9.5.8 of the DCDP 2016-2022 refers to the control of and mitigation measures relative to noise pollution. This includes: *Dublin City Council, through the planning system, can minimise the adverse impacts of noise pollution by controlling developments which are noise intensive away from more sensitive areas such as residential areas. Furthermore, where it is considered that a proposed development is likely to create disturbance due to noise, a condition can be imposed by the planning authority on any planning permission limiting the hours of operation and level of noise generation.* Objectives SIO26 and SIO27 as referred to in the Policy Section above relate.
- 7.7.2. In this respect regard is had to the Council's condition no. 2 which provides restrictions on the development. This includes 2(d) *The premises the subject of this permission shall cease operation at 2AM (02.00hrs).* In view of the proximate residential development both, in the apartments above and opposite and in Reuben Street, it is not considered that this opening time is reasonable. It is noted that the First Party response provides that they are prepared to reduce the opening hours to 10.00pm. This would be in line with the closing time of the Spar shop. It is recommended that if the Board decide to permit that this be conditioned.

7.8. Impact on the Character and Amenities of the Area

- 7.8.1. While not part of a residential conservation area Reuben Street, is a fine grained residential neighbourhood of terraced houses built in the late Victorian era with small buffer space adjacent to the pavement. The Third Party considers that this makes this street particularly sensitive to noise and late night disturbance. They contend that the proposed usage would be different to active street frontage on a street predominantly made up of apartments where the residential element has been raised off the street.
- 7.8.2. Reuben Street has not previously had this type of commercial development. There is concern that the proposed usage including late night opening hours would lead to an increase in anti-social behaviour and impact adversely on the character and amenities particularly of the adjoining residential area. Also that as the site while within the Z4 (mixed use) is proximate to the Z1 residential area in the upper part of Reuben Street, that it should be seen as within a transitional area. In this respect Section 14.7 of the DCDDP 2016-2022 refers to the need to avoid abrupt transitions in scale and use i.e. *For instance, in zones abutting residential areas or abutting residential development within predominately mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals and to landscaping and screening proposals in order to protect the amenities of residential properties.*
- 7.8.3. They consider that this proposal would be more suited to a village centre as opposed to a residential street which has no history of takeaways, particularly sensitive to noise and late night disturbances. Also, this would be different to daytime active street frontage for a street predominately made up of apartments where the residential element is raised off the street. However, it is noted that these ground floor units were originally envisaged as retail. This also applies to the ground floor of Earls Court on the opposite side of the road, where these units are currently vacant and boarded up. Thus there is an element of precedent in the current application.
- 7.8.4. It is contended that the proposed site is centrally located to three school hubs: Tenters/Coombe (2 primary and 1 secondary); Dolphin's Barn (3 primary and 1 secondary); Basin Lane (2 primary and 1 secondary). In this respect it is noted that Section 16.24 of the DCDDP 2016-2022 provides restrictions on takeaway usage

relative to the promotion of a healthier and more active lifestyle, this includes regard to location i.e: *The number/frequency of such facilities in the area, particularly in close proximity to schools*. Policy RD9 referred to by the Third Party provides that no further such takeaway uses should be located c.250m of primary and secondary schools. They have included 2 maps with their grounds of appeal showing the location of local Primary and Secondary Schools and the existing takeaways in the area. It is noted that the First Party response provides that the site is not adjacent to any schools. While regard is had to the maps submitted by the Third Party it is not considered that the site is proximate to schools.

7.9. **Conclusion regarding the proposed use**

7.9.1. Having regard to the Assessment above, I am not convinced despite the Z4 mixed use location, that a takeaway use, is the most suited to this small unit in this corner location, proximate to the junction of Reuben Street and the heavily trafficked Dolphin's Barn Street and to residential development in the apartments above and opposite in Earls Court. The need for the large vent pipe at the rear is also an issue. It is considered that having regard to the locational context that this unit would be more suited to retail/office use or perhaps a small café serving cold and pre-prepared food only. However, this is different from that applied for. There is also the issue of precedent and it is not considered that the proposed use in this location will set a desirable precedent.

7.10. **Appropriate Assessment**

7.10.1. The site is not located within or near to a Natura 2000 site. It is a fully serviced urban site. The current proposal is for the change of use of a unit and so it poses no appropriate assessment issues. Having regard to the nature and scale of the proposal, no appropriate assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1.1. It is recommended that this proposal be refused for the reasons and considerations below.

9.0 Reasons and Considerations

Having regard to the proposed change of use of this unit from retail to a takeaway use with late evening opening hours and to the proximity of residential development including balconies opposite in Earls Court and to the communal access to the residential apartments in Reuben House above, to the visual impact to these apartments of the large ventilation pipe at the rear, it is considered that the proposed use in this location would negatively impact on the residential amenities of the area. It would also impact adversely on property in the vicinity by reason of noise and general disturbance proximate to the junction of Reuben Street and Dolphin's Barn Street and would as such be contrary to Section 16.24 of the Dublin City Development Plan 2016-2022 relative to the controls on Takeaways, would set an undesirable precedent for this type of use on Reuben Street and be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

16th of March 2017