



An
Bord
Pleanála

Inspector's Report PL29S.248267

Development	Retention of existing coldroom and construction of a new single storey extension to house the coldroom.
Location	26 & 27 Clanbrassil Street Lower, Dublin 8
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2023/17
Applicant(s)	Schwan Ebrahim
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Marie Boland
Observer(s)	None
Date of Site Inspection	30 th June 2017
Inspector	Karla Mc Bride

1.0 Site Location and Description

1.1. The appeal site is located within a mixed use section of Clanbrassil Street Lower on the S side of Dublin City, and the surrounding area is mainly residential in character. The appeal premises comprises two mid terrace 2-storey properties which are located close to the junction with Lombard Street West. The site is bound to the N and S by existing commercial units and to the E by single storey dwelling houses at St. Kevin's Parade. Photographs and maps in Appendix 1 describe the site and surroundings in more detail.

2.0 Proposed Development

2.1. Planning permission is being sought for:

- The retention of a refrigerated coldroom to the rear.
- The construction of a single storey extension to house the coldroom.
- Minor internal alterations.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 3 standard conditions.

3.2. Planning Authority Reports

Planning Reports

The decision of the City Planning Officer reflected the recommendation of the planning officer.

Other Technical Reports

Drainage Division: No objection subject to conditions.

Transport Infrastructure Ireland: No observations.

3.3. **Third Party Observations**

One letter of observation which raised concerns in relation to inaccurate plans, misinterpretation and breach of court ruling, excessive size of fridge, and adverse impact on residential amenities by way of noise disturbance.

4.0 **Planning History**

Reg. Ref. 4129/15: Retention permission refused for two commercial fridges for one reason which stated:

Having regard to the large-scale and commercial nature of the fridges, their location in an external yard to the rear of a confined site and their close proximity to residential properties it is considered that the retention of the fridges in such an inappropriate location would seriously injure the residential amenities of properties in the vicinity, would not be in the interests of orderly development and would set an undesirable precedent for similar development across the city. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

5.0 **Policy Context**

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

Zoning objective: The site is located within an area zoned Z4 which seeks “To provide for and improve mixed-services facilities.” The residential area to the E is located within an area zoned Z2 which seeks “To protect and/or improve the amenities of residential conservation areas.”

Protected Structures: No. 29 to the SW is a designated protected structure.

Archaeology: Site located within a Site of Archaeological Interest for Dublin City.

5.2. Natural Heritage Designations

European sites: The following areas are located within a 5km radius of the site:

- South Dublin Bay SAC (Site code: 000210)
- South Dublin Bay & River Tolka Estuary SPA (Site code: 004024)
- South Dublin Bay pNHA (Site code: 000210)

Natural Heritage Areas: None in immediate vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

- Owns house to the rear of appeal premises.
- Unclear as to whether permission has been granted by DCC to retain an existing single storey extension or construct a new one; the refrigerated cold room currently exists and the single storey extension does not.
- Retention permission for the same fridge/coldroom (and a smaller fridge which has been removed) was reused by DCC under Reg. Ref. 4129/15 for one reason related to adverse impact on residential amenity and precedent.
- Applicant did not remove the larger fridge/coldroom and enforcement proceedings were heard at the District Court, the Judge ordered the removal of the fridge/coldroom, however the larger fridge/cold room remains in place.
- Submitted drawings do not represent the actual size of the fridge/coldroom which measures 4.0m by 2.47m and not the stated 2.9m by 2.1m, and DCC cannot therefore grant permission as per Condition no.1.
- The size of extension needed to accommodate the fridge/coldroom would take up the entire yard of no.27, the height would be higher than the rear boundary fence with consequences for light.
- No.26 is in residential use & no.27 is a takeaway with seating for 10 people; the size of the fridge/coldroom is commercial in scale and excessive for this level of use, and should not be permitted to the rear of a dwelling.

- The fridge/coldroom is on 24/7, it is located along the boundary and the noise disturbs the occupants of no.14 St. Kevin's Parade.
- The fridge/coldroom should be integral to the building.

6.2. Applicant Response

- Retention was refused, the District Court gave the applicant 4 months to remove the coldroom, and it was indicated that DCC might look favourably on a suitable submission to address the issue, given that 7 people are employed in the restaurant and that a fridge (2.1m by 3.0m) has existed since 2007.
- The main areas of contention are:
 - Continuous noise disturbance to residents.
 - The number and size of the fridges relative to the yard.
 - Their proximity to boundary walls.
- The proposed solution is:
 - Only one 2.45m high fridge to be retained (all others have been removed).
 - Completely enclose the fridge in a lean-to structure (4.73m by 2.78m) thus forming part of the main restaurant structure.
 - The fridge does not come into contact with any neighbouring structures.
 - The installation of a near silent refrigeration unit enclosed within the main building (already carried out).
- Additional space in the yard due to the removal of the second fridge to the rear of nos.26/27 which now measures 61.6sq.m, and the footprint of the proposed extension is 13.6sq.m. (22% coverage).
- The middle eastern cuisine features a large amount of chopped vegetables which are prepared in advance and stored in the coldroom.
- No loss of light to neighbouring properties due to the orientation and height.

6.3. Planning Authority Response

No new issues raised.

6.4. Observations

None received.

7.0 Assessment

The main issues arising in this case are:

- Principle of development
- Design and layout
- Residential amenity
- Other issues

7.1. Principle of development

Planning permission was previously refused under Reg. Ref. 4129/15 for the retention of two commercial fridges to the rear of the existing restaurant and takeaway. Permission was refused for one reason related to the large-scale and commercial nature of the fridges; their location in a small rear yard in close proximity to residential properties; injury to residential amenity; and precedent. One of the two units has been removed from the rear yard. It is now proposed to retain the remaining refrigerated coldroom and to construct a new single storey extension to house this coldroom in order to contain the noise.

The site is located within an area which is covered by the Z4 zoning objective in the Dublin City Development Plan 2016-2022. This objective seeks “To provide for and improve mixed-services facilities.” The proposed development is compatible with this objective. The site is also bound to the rear by an established residential area that is covered by the Z2 zoning objective which seeks “To protect and/or improve the amenities of residential conservation areas.” The impact of the proposed development on adjoining amenities will be assessed in section 7.3 below.

7.2. Design and layout

The appeal site is located within a 2-storey terrace along Clanbrassil Street Lower which is characterised by a mix of commercial and residential uses. The appeal site comprises no. 26 which is in residential use, and no. 27 which is used as a restaurant and takeaway.

The appeal site comprises the rear yard of no.27 and part of the rear yard of no.26. The yard is currently occupied by a small extension and a large refrigerated coldroom located directly to the rear of no.27. The small extension is c.3m deep, and the coldroom is approximately 4.0m wide and 2.5m deep as measured on site. It is noted that other unauthorised structures have been removed from the rear yard.

It is proposed to erect a single storey lean-to extension to the rear of no.27 which would house the coldroom in order to buffer the refrigeration noise. The proposed structure would be approximately 2.8m wide, 3.5m deep and 2.5m to 3.4m high. The proposed structure and the existing rear extension would project out approximately 4.5m from the rear wall of no. 27.

There is clearly a mismatch between the dimensions for the existing coldroom and the proposed extension in relation to the depth and width when measured on site and off the submitted plans. It is also noted that the space between the rear elevation of the existing coldroom and the rear site boundary is substantially greater than the space between the rear elevation of the proposed extension and the rear site boundary when measured off the drawings. However, notwithstanding these inaccuracies, the proposed structure would not be visually intrusive provided that the dimensions (width and depth) do not exceed those of the existing coldroom and the external finishes match the existing building. The applicant should submit revised floor plans and elevation drawings to the planning authority which accurately describe the scale of the proposed extension relative to the existing coldroom.

7.3. Residential amenity

The existing refrigerated coldroom is located in close proximity to an existing terrace of single storey cottages to the rear along St. Kevin's Terrace, and directly to the rear of no.13 St. Kevin's Terrace. The owner of this property has raised concerns in relation to noise disturbance from the refrigerated coldroom which has had an adverse impact on the residential amenities of this neighbouring house.

The refrigerated coldroom is located to the rear of an existing restaurant which complies with the Z4 “mixed service facilities” zoning objective for this section of Clanbrassil Street Lower, although it is noted that the coldroom is large relative to the scale of the restaurant. Notwithstanding this anomaly in scale, the proposed construction of a single storey extension to house the coldroom is considered acceptable. However, the proposed structure should be fitted with noise insulation material to ensure that the neighbouring properties are completely protected from noise disturbance. The applicant should be required to submit insulation details to the planning authority for written agreement before development commences.

Having regard to the size, scale and design of the proposed extension, the proposed structure would not be visually obtrusive and it would not overlook or overshadowing any neighbouring properties to any significant extent.

7.4. **Other issues**

Appropriate assessment: The proposed development would not affect any European Sites having regard to the nature of the proposed works, the location of the site within an existing built up and serviced area, and the absence of a direct connection any SACs or SPAs in the wider area.

Environmental services: The arrangements are considered acceptable subject to compliance with the requirements of Irish Water and the planning authority.

Financial contributions: Standard conditions should be applied in accordance with the Council’s Section 48 Scheme.

Waste management: Arrangements for the management and disposal of waste should comply with the requirements of the planning authority.

8.0 Recommendation

Arising from my assessment of this appeal case I recommend that planning permission should be granted for the development proposed for retention and the proposed development for the reasons and considerations set down below, subject to compliance with the attached conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the current Development Plan and to the nature, and scale of the development proposed for retention and the proposed development, it is considered that subject to compliance with the following conditions, the development proposed for retention and the proposed development would not seriously injure the amenities of the area or of property in the vicinity or give rise to a traffic hazard. The development proposed for retention and the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The external finishes of the proposed extension shall be the same as those

of the existing building in respect of colour and texture.

Reason: In the interest of visual amenity.

3. The developer shall submit detailed plans and particulars to the planning authority for its written agreement before development commences, which indicate sound-proofing measures for the proposed extension, and these measures shall be implemented in full.

Reason: To protect the amenities of residential property in the vicinity.

4. The developer shall submit revised floor plans and elevation drawings to the planning authority for its written agreement before development commences, which accurately describe the scale of the proposed extension relative to the existing refrigerated coldroom. The dimensions of the proposed extension shall not exceed those of the existing coldroom other than to allow for erection of the structure and the installation of the sound-proofing measures required under Condition no. 3 above.

Reason: In the interest of clarity.

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

Reason: In the interest of public health and to ensure a proper standard of development.

6. The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

7. The site works and building works required to implement the development shall only be carried out between 7.00 hours and 18.00 hours, Monday to

Friday and between 08.00hours and 14.00 hours on Saturdays and not at all on Sundays or Bank Holidays.

Reason: To safeguard the residential amenities of adjacent dwellings.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.
- Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Karla Mc Bride
Planning Inspector

3rd July 2017