



An
Bord
Pleanála

Inspector's Report PL29N.248531

Development	Retention of use at ground floor from retail to traditional Chinese massage centre.
Location	21 Dorset Street Lower, Dublin 1.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2322/17.
Applicant	Quiping Chen.
Type of Application	Retention of Permission.
Planning Authority Decision	Refuse.
Type of Appeal	Retention of Planning Permission
Appellant	Quiping Chen.
Observers	(i) The Bike Institute, (ii) Leo Street and District Residents Association.
Date of Site Inspection	18 th August, 2017.
Inspector	Paul Caprani.

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1.0 Introduction

PL29N.248531 relates to a first party appeal against the decision of Dublin City Council to refuse retention of planning permission for a change of use at ground floor level from retail use to traditional Chinese massage centre at ground floor level of No. 21 Dorset Street Lower. The single reason for refusal noted that the retention of the change of use proposed would result in an unacceptable loss of animation to the street and would result in a poor quality shopfront thereby setting an undesirable precedent for similar development in the city. The decision was the subject of a first party appeal. Two observations were made supporting the decision of Dublin City Council.

2.0 Site Location and Description

- 2.1. No. 21 Dorset Street Lower accommodates a four-storey structure on the eastern side of Dorset Street. The ground floor unit is located in an infill building dating from the mid to late 1970s. The building is of little architectural value. The appeal relates to only one unit on the ground floor of the building. At ground floor level the overall building accommodates a bike shop (the Bike Institute which have lodged an observation in the current appeal). The Bike Shop is separated by an entrance area into apartments located above ground floor level. However, many of these apartments appear to be vacant and somewhat derelict at present. The subject site is located adjacent to the southern side of the entrance into the apartment block. An archway serving Kelly's Row runs along the southern boundary of the subject site. No. 20 Dorset Street Lower, the building on the southern side of Kelly's Row accommodates an adult store.
- 2.2. The unit which is the subject of the current application and appeal has, according to the application form, a total site area of 63.8 metres and an internal floor area of 52.6 square metres to be retained within the building. The massage centre comprises of three private therapy rooms, a reception area, a waiting area, a small kitchenette and toilet to the rear. A shared yard is also located to the rear of the building with access from Kelly's Row.

3.0 Proposed Development

Permission is sought for the retention of the use of the building as a massage centre.

4.0 Planning Authority's Decision

4.1. Decision

Dublin City Council refused permission for the proposal for the following reason:

1. The proposed development to be retained is located on an important radial route into the city and in an area zoned Z4 which promotes both vibrant commercial use in conjunction with a strong residential component. It is considered that the retention of the change of use would result in an unacceptable loss of animation to the street and a poor quality shopfront and as such would be seriously injurious to the amenity of the area. Furthermore, it is considered that the proposed development would set an undesirable precedent for similar development in the vicinity. The proposed development is, therefore contrary to the proper planning and sustainable development of the area.

4.2. Documentation submitted with the Application

- 4.2.1. The application for retention of planning permission was submitted to Dublin City Council on 24th February, 2017. The use to be retained on site is described as a traditional Chinese massage centre. The application was accompanied by

- Planning application form.
- An application fee.
- Drawings indicating site location, existing ground floor plan and existing front and rear elevations as well as a section drawing.

- 4.3. A letter on behalf of the applicant's agents, Sweeney Design stated that the applicant was unaware that a change of use of planning permission was required in this instance. The application was submitted on foot of a warning letter. This Z4 zoning is noted on site and it is stated that a traditional massage therapy provides a service

that is in keeping with this zoning. The agent's cover letter also recognises that the frosted laminate/shopfront is unattractive and stark and would be removed and replaced by a bamboo screen. A letter was also submitted which indicates that the applicant is the freehold owner of the site.

4.4. Observations to the Planning Authority

- 4.4.1. A number of observations were submitted objecting to the retention of the change of use the contents of which have been read and noted. An observation was also submitted by Councillor Ciaran Cuffe objecting to the proposed development as the activity is deemed inappropriate for the area. Other observations submitted noted that a concentration of such services are developing within the Dorset Street area. It is also suggested that the services currently offered may not come under the definition of "traditional Chinese massage centre".

5.0 Planning Report

- 5.1. The planner's report notes an overconcentration and proliferation of similar uses within the same geographic area. This together with a poor quality shopfront and signage in place and an inactive shopfront contributes to a poor animation of the street. As such the retention of the development would represent a poor precedent and would be injurious to the amenities of the area. It is considered that the proposal is contrary to a number of policy statements in the development plan and it is therefore recommended that planning permission be refused.
- 5.2. In its decision dated 20th April, 2017 Dublin City Council issued notification to refuse planning permission for the reasons set out above.

6.0 Planning History

No history files are attached to the current file. The planner's report makes reference to Reg. Ref. 3279/00. Under this application Dublin City Council granted planning permission for the provision of a new shopfront treatment for two existing shops, new entrances to shops and existing apartments and alterations to the existing yard and vehicle gateway to the rear. Minor changes were also granted for pedestrian

gateway to the rear and minor changes to fenestration at ground floor level at No. 21-22 Lower Dorset Street.

7.0 Grounds of Appeal

- 7.1. The decision was appealed on behalf of the applicant by Sweeney Design.
- 7.2. The grounds of appeal states that the application was made for a change of use and no material alterations to the shopfront were proposed. The appellant is perfectly happy for the agent to design and supervise the construction of a new shopfront that will conform to all current shopfront guidelines. All detailed drawings would be submitted to Dublin City Council for approval prior to construction. Furthermore, it is considered that the development of a traditional Chinese massage centre would be a great addition to the diversity of the urban landscape of the Lower Dorset Street area.

8.0 Planning Authority's Response

A response from Dublin City Council states that it is considered that the planner's report adequately sets out the position of the Planning Authority in relation to the application and the reasons behind the decision and there is no further comment to make.

9.0 Observations

9.1. Observation from the Bike Institute

- 9.1.1. The Bike Institute is a neighbouring property selling and repairing bikes. This observation expresses concerns that multiple cars are stopping outside the lane next to the premises and the general comings and goings of clientele are negative for families in the area. There are families residing within the business. The clients that visit the massage centre do not continue shopping in the area.
- 9.1.2. There is an overconcentration of these types of massage parlours in the area and they operate at inappropriate hours which attracts a certain type of client which

brings unwanted and anti-social behaviour. The original observation submitted to Dublin City Council is also attached to the observation submitted to the Board.

9.2. **Observation from Leo Street and District Residents Association**

- 9.2.1. It is argued that granting permission to this restoration application runs contrary to the principles for creating a viable retail and commercial core as there are no less than four massage parlours present in Lower Dorset Street leading to an overprovision of the service within the commercial core.
- 9.2.2. The application specifically makes reference to changing the covering of the ground floor window to a printed bamboo screen. This screen will only perpetuate the poor spatial identity of the area. The signage and shopfront are of particularly poor quality and there is no proposal to address this.
- 9.2.3. The effect of this development coupled with a sex shop next door and the presence of four massage parlours and countless take-aways and pubs has led to a significant deterioration in the character of the neighbourhood. Granting permission on this application would further contribute to the deterioration of the street. It is noted that Lower Dorset Street is a main thoroughfare into the city from the Airport and does nothing to promote or advertise the tourist industry in Dublin. The development is located near several listed buildings and the proposal will have an adverse impact on the setting of these buildings.

10.0 **Development Plan Provision**

- 10.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022. The site is governed by the zoning objective Z4 which seeks to “provide and improve mixed serviced facilities”. Dorset Street is designated as a historic street in Figure 3 of the Development Plan. Dorset Street forms part of the city centre retail core. In relation to the primacy of the city centre and retail core, it is stated that in order to maintain and straighten the retail character of the city centre retail core which can be adversely affected by dead frontage and low order retail uses, the premier shopping streets in the city centre retail core are designated Category 1 and Category 2 shopping streets.

10.2. The purpose of this designation is to protect the primary retail function of these streets as principle shopping streets in the retail core with the emphasis on higher order comparison retailing with a rich mix of uses. The designation controls the extent of provision of non-retail uses at ground floor level but also allows for uses complementary to the main shopping focus such as cafes, bars, restaurants and galleries.

10.3. Specific policies which are relevant include the following:

RD13 – To affirm and maintain the status of the city centre retail core as a premier shopping area in the state affording a variety of shopping, cultural and leisure attractions and having regard to relevant objectives set out in the Retail Core Framework Plan.

RD14 – To have regard to the architectural fabric and fine grain of traditional retail frontages, while providing modern retail formats necessary for a vibrant city centre retail core.

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

RD16 – To facilitate and support Dublin Business Improvement District and particularly the promotion and facilitation of a vibrant and safe night economy.

RD17 – To promote active uses at street level on the principle shopping streets in the city centre retail core and in the Z4 – district centres having regard to the criteria for Category 1 and Category 2 streets and special planning control areas.

11.0 **Planning Assessment**

11.1. I have the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the Planning Authority's reason for refusal, the first party appeal submitted and the observations attached.

- 11.2. The grounds of the first party appeal states that the proposed development for a traditional Chinese massage centre would be appropriate and would add to the diversity of the urban landscape of Lower Dorset Street. The Board will note the observations submitted, as well as from my on-site inspection, that a trend is emerging resulting in a concentration of Chinese massage parlours/centres being located along and in the vicinity of Dorset Street (see photo's attached). These uses together with other uses such as commercial takeaways, late night clubs and adult sex shops etc. can contribute to the diminishment of the character of the area. There can also contribute to safety issues particularly at night and this, in my view, is contrary to policy RD 16 and contrary to the overall objectives on creating premier retail streets within the retail core. Having visited the business's website, I note that the premises opening times are from 9 a.m. to 11.45 p.m. However having inspected the site on two occasions in mid-morning and mid-afternoon I found the premises to be shut. Such late night activity in conjunction with pubs and takeaways would result in late night activities which would not be conducive to attracting and maintaining a quality retail and residential environment. The key objective of the Z4 zoning is to ensure that new development should enhance attractiveness and safety for pedestrians together with a diversity of uses including residential use with appropriate social facilities.
- 11.3. The proliferation of such uses together with poor shopfronts did not in my view contribute in a positive manner in the creation of a high quality and premier shopping area within the city centre retail core which Dorset Street forms part of. This conclusion is not in any way to infer that the subject site is used for anything other than traditional Chinese massage services.
- 11.4. However, a key element of the Z4 zoning objective is to create a viable retail and commercial core. The provision of a massage centre constitutes in my view a professional service rather than a retail type activity, the latter of which would generate a vibrant streetscape with high levels of footfall. As already mentioned the premises was not open during normal business hours and as such, the use for which retention is sought does not contribute to active retail activity and constitutes dead frontage on the street.

- 11.5. It is important in my view that Dorset Street attracts high quality uses which generates viable, vibrant, higher order retail activity which is consistent with the commercial core and will support, strengthen and consolidate the core retail area of the city. As pointed out in the Local Authority's Planner's Report, Dorset Street is a key historic radial route leading to and from the city and provides a direct link with Dublin Airport. It is important that visitors to the city from the Airport are presented with a vibrant positive impression of Dorset Street while arriving at the city centre.
- 11.6. I consider that the existing shopfront as presented in the current application is poor. No effort has been made to improve the aesthetics and environmental amenity associated with the existing shopfront and as such the proposal before the Board reinforces a poor visual perception of the site and its immediate surroundings. The grounds of appeal suggest that the applicant is happy to submit new drawings in order to improve the design of the shopfront that will conform with all current shopfront guidelines. Any such agreement in this regard should not be determined by way of a condition to require revised designs. Any fundamental change to the design of the shopfront should be the subject of a separate planning application which can be evaluated on its merits.

12.0 Conclusion and Recommendation

Arising from my assessment above, I would concur with the decision of Dublin City Council that the proposed development would not in this instance contribute to the overall land use zoning objective under the Z4 zoning which seeks to provide for and improve mixed serviced facilities and the proposal would not contribute in any meaningful way to a vibrant and viable retail commercial core along Dorset Street. I therefore recommend that the Board uphold the decision of Dublin City Council and refuse retention of planning permission based on the reasons and considerations set out below.

13.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and the proximity 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 in the area on a European site.

14.0 Decision

Refuse planning permission based on the reasons and considerations set out below.

15.0 Reasons and Considerations

It is considered that the nature of the use proposed to be retained is contrary to the Z4 land use zoning objective contained in the Dublin City Development Plan 2016 – 2022 which seeks to enhance the attractiveness of such lands and safety for pedestrians and to create a diversity of uses to maintain the vitality of the area throughout the day and evening. It is considered that the retention of the change of use would result in an unacceptable loss in the vitality of the street and as such would be seriously injurious to the amenities of the area. It is also considered that the proposed development would set an undesirable precedence for similar type uses in the vicinity. The proposal would therefore be contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector.

16th August, 2017