



An
Bord
Pleanála

Inspector's Report PL29N.248550

Development	New entrance from Talbot Street to access underground car parking including change of use of part of retail premises. Changes to existing Talbot Street office entrance and lobby.
Location	Talbot Mall, Irish Life Centre, Talbot Street, Dublin 1
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2406/17
Applicant(s)	Irish Life Assurance
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	John Schutte
Observer(s)	Dublin Town
Date of Site Inspection	1 st August 2017
Inspector	Donal Donnelly

1.0 Site Location and Description

- 1.1. The appeal site is located at the Talbot Street frontage of the Irish Life Centre in Dublin City Centre. The Irish Life Centre is a mixed use modern development constructed in the 1970's and 1980's and occupying most of the Talbot Street/ Gardiner Street/ Abbey Street Lower/ Marlborough Street block. The development comprises a number of interlinking buildings of various heights constructed around internal courtyards. The main pedestrian entrance is from Lower Abbey Street to the south, where access continues through the centre via Talbot Mall to Talbot Street. Vehicular access to a basement car park is available from Marlborough Place and Gardiner Street and there is an egress onto Lower Abbey Street.
- 1.2. The proposed development relates to two small separate areas to the north of the centre currently in use as a retail unit (vacant) and an entrance lobby. The vacant retail unit has a frontage of 4.285m onto Talbot Street and a floor area of 39.5 sq.m. The unit is adjoined to the west by a Dealz retail unit and to the east by a former solicitor's office (appellant). The lobby is located approximately 45m west of the vacant retail unit at the entrance to Talbot Mall and at the end of the same concrete arched colonnade that extends around the ground level of the Irish Life Centre. There is a disused ATM within the lobby, as well as the stairwell to offices above and a basement car park. The existing access to the lobby is from within Talbot Mall.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following works:
- A new entrance from Talbot Street to access the underground car park, including change of use of part of a retail premises;
 - Changes to the existing Talbot Street office entrance lobby to Block 5.
- 2.2. The proposed new entrance to the public car park from Talbot Street includes the creation of a new entrance lobby; a change of use from retail to ancillary use; modifications to the external Talbot Street elevation; installation of new internal stairs, lift shaft and lift carriage; and creation of new pedestrian access to the public car park at basement level.

- 2.3. The proposed changes to the existing office entrance to Block 5 from Talbot Street include the extension of the lobby floor area by 1.85 sq.m.; creation of a new door opening to the external façade facing Talbot Street; relocation of existing dry riser; removal of the existing entrance linking the lobby to the mall circulation space to the east; and removal of redundant ATM room.

3.0 Planning Authority Decision

3.1 Decision

- 3.1.1. Dublin City Council issued notification of decision to grant permission for the proposed development subject to 10 conditions.
- 3.1.2. Condition 2 requires the applicant to submit written details to the Planning Authority of management and security arrangements for the entrance to the car park, together with details of how it is proposed to control litter in the area.
- 3.1.3. Other conditions are attached relating to signage, railway safety, construction works and drainage.

3.2 Planning Authority Reports

- 3.2.1. The recommendation to grant permission, as outlined in the Planner's Report, reflects the decision of the Planning Authority.
- 3.2.2. Under the assessment of the application, it is noted that that the area involved is small in scale, and notwithstanding the fact that the main ground floor use in Z5 zoned areas should be retail, it is also considered necessary to provide access to uses on other floors.
- 3.2.3. With respect to the proposed changes to the existing Talbot Street office entrance lobby to Block 5, it is stated that the new entrance would replace an existing blank wall, and would therefore generate activity at street level.
- 3.2.4. Reference is made to the application cover letter which states that the existing retail unit has been vacant for some time and is unlikely to attract a tenant due to its small size. Furthermore, it is submitted that the additional entrance to the car park would

provide additional space, comfort and ease of movement, and the new entrance to Block 5 would allow workers to access directly from the street.

3.2.5. Concern has been raised in third party submissions regarding the potential for anti-social behaviour within the proposed car park lobby. However, it is considered that details of access and security arrangements can be controlled by way of condition. It is also noted that the proposed works would be taking place within the context of extensive refurbishment of the complex.

3.2.6. The site borders the zone of archaeological constraint for a recorded monument and is also within the zone of archaeological interest. It is stated within the Archaeological Report that there is no objection subject to condition.

3.3. Prescribed Bodies

3.3.1. A submission from Iarnród Éireann notes the provisions of the Railway Safety Act (2005), which places obligations on persons carrying out works on or near the railway.

3.4. Third Party Observations

3.4.1. Four third party observations were received from the appellant, the observer, from Norfaglass Ltd, Irish Life Centre and from an apartment resident of the Irish Life Centre.

4.0 Recent Planning History

Dublin City Council Reg. Ref: 4255/16 (PL29N.248110)

4.1. The Council issued notification of decision to refuse permission for the demolition of no. 13 Abbey Street Lower, Dublin 1 (former Salvation Army Building) and of a ground level plant enclosure to its rear, as well as rerouting of the vehicular ramp from the adjacent Irish Life car park (leading to Abbey Street Lower) through the footprint of the demolished structures. Permission was also sought to resurface and landscape the resulting site area and adjacent areas within Northumberland Square and Abbey Street Lower.

- 4.2. The Board upheld the Council's decision for reasons relating to the unacceptable loss of historic fabric and loss of one of a cluster of cultural and religious buildings which contribute to an important historic streetscape along Lower Abbey Street (Salvation Army Building).

Dublin City Council Reg. Ref: 2369/16

- 4.3. Permission granted for development at a site of c. 1.1 hectares at the Irish Life Centre, Abbey Street Lower, Dublin 1 (including the site area bounded by Beresford Lane (off Gardiner Street Lower), Gardiner Street Lower, Abbey Street Lower (and including Northumberland Square) to include extensive improvement works to the grounds and public areas within and around the Irish Life Centre at Abbey Street Lower, Dublin 1, including works within the curtilage of a Protected Structure.
- 4.4. This proposal includes changes to access and egress (including reversal of access and egress to the underground car park and revisions to the railings and gates controlling afterhours access to the grounds), as well as change of use (from ancillary to retail) of c.340 sq.m. within the existing retail mall as part of a remodelled entrance from Northumberland Square.

Dublin City Council Reg. Ref: 3924/16

- 4.5. Permission granted for the reconfiguration of the existing Talbot Mall to include the amalgamation of retail units and new shopfront and signage onto Talbot Street to replace existing street-front signage.

5.0 Policy Context

5.1. Dublin City Development Plan, 2016-2022

- 5.1.1. The appeal site is zoned "Z5" where the objective is "*to consolidate and facilitate the development of the central area, and to identify, reinforce and strengthen and protect its civic design character and dignity.*" (Section 14.8.5)
- 5.1.2. Talbot Street is a Category 2 shopping street. Category 1 and 2 streets are designated to maintain and strengthen the retail character of the city centre retail core, which can be adversely affected by dead frontage and lower-order retail uses.

- 5.1.3. Policy RD17: seeks *“to promote active uses at street level on the principal shopping streets in the city centre retail core and in Z4 district centres and having regard to the criteria for category 1 and category 2 streets and special planning control areas.”*

5.2. Natural Heritage Designations

- 5.2.1. None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third party appeal against the Council’s decision was submitted on behalf of Mr. John Schutte, owner of the adjoining premises. The grounds of appeal and main points raised in this submission can be summarised as follows:

- Proposed entrance to underground car park will have an extremely negative impact on appellant’s apartment above adjoining property.
- Owners and occupiers of Talbot Hall have had to endure 18 months of refurbishment work on the Talbot/ Irish Life Mall and the impact of noise, vibration and dust will be greater than has been experienced up until now.
- There were no site notices erected on the actual premises.
- Proposal is contrary to Development Plan policy regarding Category 2 Streets – it will lead to the loss of a retail unit and the provision of an entrance lobby, which is essentially a dead frontage.
- No justification has been provided for the entrance to the car park – it has operated for 30 years without an entrance directly onto Talbot Street. There are already 3 access points to the car park.
- In a rising economy, there is increasing demand for retail units of all sizes, particularly on a street like Talbot Street.
- The plans show no areas where security personnel could be accommodated indicating that the new entrance will be unmanned – there are fears that the new entrance will become an area for unwanted congregation and anti-social

behaviour. Board is asked to ascertain security arrangements and to circulate them to the appellant for comment.

- New stair and lift access will result in the loss of c. 6 parking spaces. New access may also block the adjoining door and stairwell leading to upper floors.
- A construction management plan should be provided as further information.
- No details have been provided on the lift proposed in the entrance to the car park.
- Proposed accesses to car park and offices will have an unacceptable visual impact on the ground floor of Talbot Mall, which was originally designed as a single entity.
- No report was received from Roads and Traffic and the conditions of the City Archaeologist were not attached to the decision.

6.2. Applicant Response

6.2.1. The applicant's agent responded to the third party appeal with the following comments:

- Site notices were erected in accordance with the requirements of the Planning and Development Regulations, 2001 (as amended). Planning Authority completed inspection of notices and found them to be acceptable.
- Retail unit has remained vacant since 2012 – proposal would help to encourage a strong and complementary mix of uses on multiple floors.
- Retail unit is 39.5 sq.m. and has a frontage of only 4m.
- Proposed changes to Block 5 entrance lobby will facilitate a more active relationship between the entrance and the street.
- Construction works would be comparatively minor and not unreasonable given the Z5 zoning for the site. Conditions will safeguard the amenity of adjoining residents.
- Parkrite has confirmed that the proposed Talbot Street car park lobby and stairwell will benefit from having some security measures in place (e.g.

CCTV). Applicant would be willing to install a speaker at the proposed car park entrance, and an access control solution on an automatic door from Talbot Street could be considered.

- Proposal does not affect parking spaces allocated to Talbot Hall residents.
- Applicant's preference is now to retain the doorway linking the internal escape stairs to the basement car park to provide access to the small number of Talbot Hall residents who use the public car park.
- A machine roomless lift is proposed, which does not have a requirement for any external plantrooms to power/ run the lift.
- Design of the entrance is far more open and inviting and provides a degree of articulation which does not exist at present. The lift will significantly improve ease of access for those who are mobility impaired or less agile.

6.3. Planning Authority Response

6.3.1. None received

6.4. Observations

6.4.1. An observation was received from Dublin Town in support of the proposed development. The following points were raised in this submission:

- Works will benefit the area by facilitating greater ease of pedestrian access to the Irish Life car park and increasing permeability of the centre.
- Expansion of the main entrance will remove the current dead frontage and enliven the streetscape.
- New entrance will be high quality in terms of appearance and materials used.
- Further development of Irish Life properties is supported by a clear majority of businesses in the wider Talbot Street area, (signatures in support attached).

7.0 Assessment

7.1. In my opinion, the main issues to be addressed in this appeal are as follows:

- Development principle;
- Impact on the Category 2 Street;
- Impact on amenities of the area; and
- Appropriate Assessment.

7.2. Development principle

7.2.1. The site is zoned “Z5 – City Centre”, where the objective is *“to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.”*

7.2.2. The proposed development includes a change of use of a retail premises to an access lobby to a car park and for amendments to an existing access to an office block. Car parking is a permissible use within the Z5 zone and therefore I would be of the opinion that an ancillary space serving a car park would be acceptable in principle.

7.2.3. I would also be satisfied that the proposal to provide access to the office block directly from the street at the location of an existing blank façade will create animation and help to improve vitality at this location throughout the day.

7.3. Impact on Category 2 Street

7.3.1. Talbot Street is designated as a Category 2 Shopping Street in the Development Plan. Category 1 and 2 Streets are the premier shopping streets within the city centre retail core and it is a policy of the Council (RD17) *“to promote active uses at street level on the principal shopping streets in the city centre retail core and in Z4 district centres and having regard to the criteria for category 1 and category 2 streets and special planning control areas.”*

7.3.2. It is recognised in the Development Plan that the retail character of the city centre can be adversely affected by dead frontage and lower order retail uses, and in order to strengthen the retail character of Category 2 Streets, further development of retail

frontages will be encouraged. It is also stated that complementary non-retail uses, that add to the vibrancy of the street and create a mixed use environment to provide for a more integrated shopping and leisure experience, will be considered favourably but with regard also to the primary retail function of the street.

- 7.3.3. It was recognised by the Planning Authority that the main ground floor use within the Z5 zone should be retail but that it is also necessary to provide access to uses on other floors. It is noted that the small retail unit has been vacant for some time and is unlikely to attract a tenant due to its size.
- 7.3.4. The third party appellant, however, considers that the proposal is contrary to Development Plan policy regarding Category 2 Streets, as it will lead to the loss of a retail unit and the provision of an entrance lobby which is essentially a dead frontage. It is also submitted that there is increasing demand for retail units of all sizes, particularly on a street like Talbot Street.
- 7.3.5. I would share the appellant's view that the proposal is contrary to the Council's primary aims and objectives for Category 2 Streets. Retail frontages are to be encouraged within these streets and the proposal will see the removal of a retail unit that is small in scale but nonetheless provides an opportunity for a start-up business or complementary retail service outlet. The applicant does not outline in detail their attempts to lease the unit for retail use since it became vacant. The applicant's agent states that the unit has been vacant since 2012; however, there is evidence that the unit was trading as recently as June 2014 (Google Streetview). I would therefore have concern that the loss of retail unit at this location will weaken the retail character and function of the street and would be contrary to Development Plan criteria for Category 1 and 2 streets, and to Policy RD17 which seeks to promote active uses at street level.
- 7.3.6. Notwithstanding the above, I accept that there is an element of planning gain associated with improving pedestrian permeability and linkages. I also acknowledge that there are comprehensive proposals to improve the public realm through the Irish Life Centre. However, I consider that there may be opportunities for public access to the basement car park from Talbot Street via the proposed new access beside Talbot Mall. In this regard, I would have no objection to this element of the proposed

development and consider that it will improve access for employees and replace an otherwise blank wall with an active opening.

7.4. Impact on the amenities of the area

- 7.4.1. The third party appellant is concerned that the proposed access to the car park will become an area for unwanted congregation and anti-social behaviour and that the new entrance will not be manned by security personnel. Reference is made to a car park at Fleet Street operated by the same car park operator and it is acknowledged by the appellant that this car park serves a busy nightlife environment and is therefore likely to attract a high level of anti-social behaviour.
- 7.4.2. The car park operator (Parkrite) confirms within the applicant's response to the third party appeal that unmanned lobbies are standard across the public car park industry but that an access control solution on an automatic door could be considered. A car park reader unit would recognise the car park tickets or access cards and a magnetic door would be released to authorised car park users only.
- 7.4.3. Should the Board be minded to grant permission for the proposed change of use of the retail unit to a car park access lobby, I would recommend that such a system of access should be required by way of condition having regard to the potential for anti-social behaviour and unwanted access at this location. However, as noted above, it may be possible to install a similar shared system of access at the proposed access beside Talbot Mall, with the existing lift being programmed to allow access to certain floors for different users.
- 7.4.4. Overall, I consider that permission should be granted for the amendments to the access at Talbot Mall as proposed, and that the proposed change of use should be refused permission.
- 7.4.5. The appellant has raised a number of other issues relating to the construction impacts of the proposed development and the validation of the planning application. I consider that if the Board is minded to grant permission for the proposed development in its entirety, the construction impacts can be controlled by way of condition. I note that site notices were placed at eight different locations around the site and the Planning Authority was satisfied that these locations complied with the requirements of the Planning and Development Regulations, 2001 (as amended).

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

8.0 **Recommendation**

- 8.1. I recommend a split decision in this case (a) refusing permission for the new entrance from Talbot Street to access the underground car park, including change of use of retail premises, and (b) granting permission for the changes to the existing Talbot Street office entrance lobby to Block 5 for the following reasons and considerations and subject to the conditions set out below.

9.0 **Reasons and Considerations (a)**

The proposed change of use from a retail unit to ancillary car park use is located on a Category 2 Shopping Street as designated in the Dublin City Development Plan 2016-2022, where the Council will seek to encourage further development of retail frontages on these streets in order to strengthen their retail character. The proposed loss of a retail unit at this location would negatively impact upon the vitality and viability of retail development in the city centre and would be contrary to Development Plan Policy RD17, which seeks *“to promote active uses at street level on the principal shopping streets...”*. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

10.0 **Reasons and Considerations (b)**

Having regard to the “Z5 – City Centre” zoning objective applicable to the site, to the existing pattern of development in the area and to the limited scale of the proposed development, the Board considers that, subject to compliance with the conditions set out below, the amended access would be in accordance with the provisions of the Development Plan, would not seriously injure the amenities of the area, and would improve pedestrian access arrangements to the building. The proposed

development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be 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 interests of clarity.

2. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

3. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

4. Site development and construction works shall be carried out in such a manner as to ensure that the adjoining street is kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on adjoining public roads or footpaths, said cleaning works shall be carried out at the developer's expense.

Reason: In the interests of orderly development.

Donal Donnelly
Planning Inspector

1st August 2017