



An
Bord
Pleanála

Inspector's Report PL29S.249324

Development	Change of use from retail to café/restaurant, construction of extension, canopies, signage with mains connections and associated site works.
Location	49 & 49a Donnybrook Road, Dublin 4
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2807/17
Applicant(s)	Relay Group Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Miriam Molloy
Observer(s)	None
Date of Site Inspection	9 th January 2018
Inspector	Rónán O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is located just off the main thoroughfare of Donnybrook Road (with an address on Donnybrook Road) and is currently vacant with the site behind hoardings. The site is bounded to the south and west by Donnybrook Cemetery and to the north by a retail unit.

2.0 Proposed Development

- 2.1. Change of use from retail to café/restaurant, construction of extension, canopies, signage with mains connections and associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Grant permission. There are no conditions of particular note.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

- Principle of use acceptable.
- Further information requested in relation to materials, details of kitchen and extraction and operating times.

- 3.2.2. Following receipt of Further Information, the planning officer recommended a grant of permission.

3.2.3. Other Technical Reports

Drainage – No objection subject to conditions.

Roads and Traffic Planning - No objection subject to conditions.

Archaeology – site is location within the Zone of Archaeological Constraint for Recorded Monument/Site is located within a Zone of Archaeological Interest

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. A number of submissions were made during the course of the application. The issues raised are covered within the Grounds of Appeal.

4.0 Planning History

4.1.1. None.

5.0 Policy Context

5.1. Development Plan

5.1.1. The relevant Development Plan is the Dublin City Development Plan 2016-2022. The appeal site is zoned Z4 (District Centres) with an objective 'to provide for and improve mixed-services facilities'.

5.1.2. The site lies within a Zone of Archaeological Interest.

5.1.3. Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Policy CEE12 –To promote and facilitate tourism as one of the key economic pillars of the city's economy – This supports the increase in tourist facilities including cafes and restaurants
- Section 16.29 – Restaurants- Provides guidance for the consideration of restaurant proposals.
- Section 16.10.20 Development on Archaeological Sites and in Zones of Archaeological Interest

5.2. Natural Heritage Designations

5.2.1. None

6.0 The Appeal

6.1. Grounds of Appeal

- Poor design/part pastiche part new build/architecturally dishonest/reality is that it is one new building/badly proportioned/takes away from the existing corner building
- First floor to be built on existing old walls/will impact on appellants property/would cause safety issues/impact on graveyard/demolition on appeal site will impact on appellant's property
- Revised layout is unrealistic – cannot work as shown
- Inconsistencies in the drawings
- Disabled WC facilities are inadequate
- Donnybrook does not need another coffee shop – at least 4 within approximately 100m.
- Negative visual impact from adjacent graveyard/overbearing/inappropriate appearance
- Development description is inaccurate – difficult to see what part of the existing two storey building is being retained.

6.2. Applicant Response

- Design intention is to disguise the greater volume/continuation of existing brickwork at ground floor level/first floor extension designed to be subordinate
- Right of way/shared party wall – is a legal matter and not a matter for planning
- Layout provides flexibility/allows for a quick turnover of customer/services and circulation spaces will be clear
- Restaurant is a permitted use/not proposed to open a franchised operation
- Materials chose to compliment the aesthetic of the cemetery/proposal is screened by trees/proposal will enhance views from cemetery

- Aside from the front elevation all existing walls are retained.

6.3. **Planning Authority Response**

6.3.1. No further comment to make.

6.4. **Observations**

6.4.1. None.

6.5. **Further Responses**

6.5.1. None.

7.0 **Assessment**

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of development
- Design
- Archaeology
- Residential Amenity
- Other matters
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. No objection to the principle of a café/restaurant use was raised by the Planning Authority. The site is Zoned Z4 (District Centres) with an objective 'to provide for and improve mixed-services facilities'. Under this zoning, a restaurant is a permissible use. The zoning matrix does not specifically state café is a permissible use but within the Development Plan the terms café and restaurant are used in conjunction with each other. Appendix 21 of the City Development Plan classes a café and a restaurant as the same use. Section 16.29 'Restaurants' states that the positive

contribution of café and restaurant uses and the clusters of such uses to the vitality of the city is recognised.

7.2.2. Policy CEE12 supports in the increase in tourist facilities including cafes and restaurants.

7.2.3. Section 16.29 of the Development Plan requires consideration of the impact on the vitality and viability of shopping areas. I note the proposal results in a loss of a retail unit. However, the surrounding area is well served by a mix of retail units and I do not consider that the proposal would result in an adverse impact on the vitality or viability of the surrounding area. In fact, the proposal would have a positive impact given that it is bringing a currently vacant site back into active use.

7.2.4. Having regard to the above, the principle of a café/restaurant is acceptable in this instance.

7.3. **Design**

7.3.1. It is proposed to retain the ground floor walls but remove the front façade. The existing structure is of limited architectural merit and makes a limited contribution to the streetscape and the site, in its current state behind hoardings, is something of an eyesore. The proposal is to introduce new column structures similar in appearance to the adjacent building at No. 47 Donnybrook Road, with a metal clad first floor element set back by 450mm. Glazed folding doors are proposed at to the ground floor front elevation. The proposal will sit 1.4m higher than the adjacent building.

7.3.2. I consider that the proposal is an improvement to existing building and will make a positive contribution to the streetscape. Reference is made to the adjacent building and the proposal sits comfortably with the neighbouring buildings. While the height is greater than its immediate neighbours, the setback will serve to reduce the overall bulk, mass and scale of the proposal. In addition, the appeal site is set in off the main thoroughfare, which will further reduce the visual impact of the proposal.

7.3.3. In relation to the visual impact from the graveyard, the first floor element will be visible from within the graveyard. However, given the limited scale of this element, this will not appear as an overbearing or visually dominant structure. I note that there are large trees within the graveyard which serve to partially obscure views from the graveyard towards the appeal site.

7.3.4. Archaeology

7.3.5. There is a report on file from the City Archaeologist. The site is within a Zone of Archaeological Constraint for DU018-060 (Donnybrook/Ballsbridge settlement) and DU022-082 (settlement). The site is also within a Zone of Archaeological Interest. Should the Board be disposed to a grant I would recommend a condition requiring archaeological monitoring of the site.

7.3.6. Residential Amenity

7.3.7. The closest residential units are located approximately 16m to the south of the site, fronting onto the laneway (The Crescent). Section 16.29 of the Development Plan requires consideration of the impact of noise, general disturbance, hours of operation and fumes on the amenities of nearby residents.

7.3.8. I do not consider that the café/restaurant would result in a large amount of noise nor result in disturbance of nearby residents. The hours of operation proposed are 8am to 10pm Monday to Saturday. This is considered reasonable and will not lead to adverse impacts on amenity. In relation to fumes it is proposed that food served will be hot foods heated by way of an oven with an extract at roof level. I do not consider that this will result in a negative impact on amenity, having regard to potential fumes or odour.

7.3.9. Other Issues

7.3.10. In relation to waste, it is proposed that waste will be stored within the waste facilities provided and removed on a daily basis. This is considered to be acceptable.

7.3.11. In relation to traffic, given the relatively small scale nature of development I do not consider that it will give rise to any material increase in traffic, and as such will have a very limited impact on the surrounding road network.

7.3.12. In relation to accessible WC facilities, Appendix 15 of the Development Plan requires all retail/commercial applications to provide public toilets for people with disabilities, which are sited so that they are accessible and usable. I note the appellants have stated that the accessible WC provided are unusable. However from an examination of the floorplans, I note that an accessible WC has been provided at ground floor level and there is no indication that this will not be usable.

7.3.13. In relation to party wall and structural issues raised by the appellant, I note that these are issues outside the remit of planning and are dealt with by other areas of legislation.

8.0 Recommendation

I recommend that planning permission should be granted for the proposed development for the reasons and considerations set down below and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2016 to 2022, including the zoning objective for the area, and to the nature, and scale of the proposed development, it is considered that, subject to compliance with the following conditions, the proposed development would not negatively impact the vitality and viability of the surrounding shopping area, would not detract from the streetscape or the visual amenities of the area, and would not result in significant impacts on the residential amenity of residential property in the vicinity. 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 carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 4th Day August 2017, 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. Site development and building works shall be carried out only between the hours of 0800 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. The signage shall consist of 300mm brushed stainless steel lettering and the canopy shall not contain any advertisement or signage.

Reason: In the interest of the proper planning and sustainable development of the area.

4. Prior to commencement of development, and on appointment of a contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management, hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of orderly development.

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

Reason: In the interest of public health.

6. The hours of operation shall be 8am to 10pm Monday through Sunday,

Reason: In the interest of the proper planning and sustainability of the area.

7. The following archaeological requirements shall be complied with:

(i) Archaeological mitigation for any ground works must be agreed in advance of commencement with the City Archaeologist.

(ii) If, during the course of site works and construction, archaeological

material is discovered, the City Archaeologist shall be notified immediately. Further, it is obligatory under the National Monuments Act 1994 that such is brought to the attention of the National Monuments Service, Department of the Environment, Heritage and Local Government, and the National Museum of Ireland.

(iii) In the event of an archaeological find on site, the City Archaeologist (in consultation with the National Monuments Service, Department of Environment, Heritage and Local Government) shall determine the further archaeological resolution of the site.

Reason: In the interest of preserving, or preserving by record, archaeological material likely to be damaged or destroyed in the course of development.

8. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing, by the planning authority.

Reason: In the interest of visual amenity.

9. Notwithstanding the provisions of the Planning & Development Regulations 2001 (As Amended), no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting element, shall be displayed or erected on the building or within the curtilage, or attached to the glazing, without the prior grant of planning permission.

Reason: In the interests of visual amenity.

10. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

11. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision satisfactory completion and maintenance until taken in charge by the local authority of services required in connection with the proposed development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion and maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement shall be referred to An Bord Pleanála for agreement.

Reason: To ensure the satisfactory completion of the development.

12. 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.

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.

Rónán O'Connor
Planning Inspector

10th January 2018