



An
Bord
Pleanála

Inspector's Report ABP-300938-18

Development	Street furniture license application – 3no. tables and 9no. chairs.
Location	Public footpath adjacent 74 Talbot Street, Dublin 1.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	SF5513
Applicant(s)	Paul Kelly
Type of Application	License application
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Paul Kelly
Observer(s)	None
Date of Site Inspection	05/07/18
Inspector	John Desmond

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1.0 Site Location and Description

- 1.1. The application site is located in the north city centre area, on the southern side of Talbot Street, at the junction of that street and Store Street / James Joyce Street to the west, c.90m east of Gardiner Street and c.60 west of the railway overbridge.
- 1.2. The public pavement to Talbot Street measures at 4.24m at this location. The space concerned in this application measures 6.8m in length (parallel to the façade of no. 74 to Talbot Street) and 1.5m in depth (extending from Talbot Street façade). Outdoor seating and tables, with perimeter screening were in situ in this location at the time of inspection.
- 1.3. From observations, it is evident that Talbot street carries a heavy footfall of pedestrians, as would be expected given that it is a primary route between Connolly Station and Busárús and O'Connell Street / Henry Street.

2.0 Proposed Development

- 2.1. The license application is for 3no. tables and 9no. chairs within a 6.8m X 1.5m space running parallel to the Talbot Street facade.

The application states that street area concerned measures 8m X 1.5m or 12-sq.m; that the table dimensions are approximately 0.86-sq.m and the proposed hours of operation are 12pm to 11pm.

A declaration attaching to the application indicates that the screens are to be plain, coloured or neutral canvas type not more than 1m high, spanning between framed or simple metal type posts, and that no advertising, apart from the name of the premises is to be used without permission of the City Council.

3.0 Planning Authority Decision

3.1. Decision

REFUSE permission on grounds of public order issues and loitering and public safety and access from encroachment on the limited public footway in a busy pedestrian location adjacent a bus stop.

3.2. Local Authority Reports

Roads Maintenance Services, Environment and Transportation Department Report (16/01/18) – The report (which is the deciding report) of the Senior Engineer is consistent with the decision of the Council and the substance of the refusal.

Planning & Development – Two reports issued from the Executive Planner (signed 21/06/17, but stamped 12/07/17, and 14/07/17). The later report refers to revised plans, but makes no reference to what amendments were made. Both report considered the proposal to be acceptable subject to the same conditions limiting screens to 1.2m in height, to neutral colour without advertisements and for street furniture screens to be stored indoors during times furniture not permitted to be on the street. The first report considered there would be adequate space for wheelchairs, prams, etc., within the 1.8m width pavement remaining.

Roads & Traffic Planning – Report of Assistant Planner (31/08/17) refers to application for 4no. tables and 4no. chairs within screened areas of 12.75-sq.m (4m length X 1.5m wide). 1.8m width of pavement to bollards, or 2.5m to kerb would remain. Street furniture recently permitted outside Spar. The proposal would not cause an obstruction.

Dublin Fire Brigade (20/11/17) – No objection subject to attaching a standard condition not to obstruct or reduce width of escape route from building or adjoining buildings, and a note to the applicant that gas heaters are not permitted without prior consultation with Fire Service.

An Garda Síochána (20/10/17) – Strong objection based on large number of complaints from customers and stakeholders in the immediate area concerning loitering and anti-social behaviour in the vicinity, including at public street furniture.

There are public safety and access concerns should street furniture encroach on the limited public footway in this busy pedestrian and trafficked area adjacent a bus stop at a cross roads junction.

4.0 **Planning History**

The Roads & Traffic Planning report refers to the recent permitting of street furniture for the Spar unit on Talbot Street, but provides no reference.

5.0 **Policy Context**

5.1. **Development Plan**

Dublin City Development Plan 2016-2022

Land use zoning – objective Z5 *‘To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.’*

Development Management Standards - S.16.30 Street furniture

5.2. **Natural Heritage Designations**

South Dublin Bay and River Tolka Estuary SPA Site Code 004024 c.1.8km to the northeast.

South Dublin Bay SAC Site Code 000210 c.3.2km to the southeast.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The main grounds of the appeal by Paul Kelly may be summarised as follows:

- Unfair competitive advantage to other businesses (e.g. Spar, Le Bon Crubeen and The Celt) on Talbot Street which have outdoor seating and, in some cases, busier footfall and narrower pavements (Le Bon Crubeen and The Celt).

- The Garda objection relates to all Talbot Street and not specifically to no.74.
- Submits that Garda Sergeant Dermot Moran, Store Street Licensing Officer, told him he had no objection and that the area had excellent cameras.
- The bus stop is set-down only, and there is never a log jam here compared to the set-down and pick-up bus stop adjacent Spar.
- James Joyce Street is on the east side of the site and leads to Store Street Pedestrian Plaza where through-traffic is not possible. Limited traffic movements come up Store Street from Frenchman's Lane. It is not a busy traffic junction and motorised traffic is slow. No seating is proposed to James Street.
- Similar proposals have been permitted at much busier locations in Dublin.
- The newly renovated pub is mentioned in James Joyce's '*Ulysses*' and the proposed seating is intended to make the corner more cosmopolitan, with numerous tourists drinking coffee.
- The seating enables the building to be presented in a modern, functional way, increasing the attractiveness of the area.
- The policing of the seating area by staff means the area doesn't have the same issues with loitering that other businesses may have.

6.2. Planning Authority Response

None

6.3. Further Responses

None

7.0 Assessment

- 7.1. The reason for refusal relates primarily to concerns raised by An Garda Síochána in their report to the application. Having regard to the concerns about loitering and antisocial behaviour, I consider it most likely that the proposed external seating area would reduce rather than aggravate such activity. The passive surveillance of the

street resulting from the proposed external active use would be expected to improve perceived safety of the street and reduce antisocial behaviour and loitering and would be benefit to this vibrant area with its diverse retail/services offer. It would not be in the interest of the business to facilitate or encourage loitering and antisocial behaviour, but rather report it to the Garda so that it can be addressed promptly.

- 7.2. Talbot Street is a category 2 street within the central shopping area defined under the criteria under City Development Plan 2016-2022 (Fig.8 City Centre Retail Core – Principle Shopping Streets). Chapter 7 of the Development Plan sets out the Council's strategy and policy approach to transport (e.g. policy MT2), which includes promotion of modal shift from car use to more sustainable and active modes such as walking.
- 7.3. Proposals for street furniture are considered by the Council with the context of development management standards set out under s.16.30 of the Development Plan, which includes, inter alia, consideration of the potential impact on access and visibility. The reports of the Council's Planning Officer (12/07/17 and 14/07/17) raised no objection subject to 2no. standard type conditions, which I consider to be reasonable. The Council's Roads & Traffic Planning report raised no objection and considered the proposed development would not cause an obstruction, although the report refers to a more extensive development which is not consistent with that proposed in the application. The Garda report raised concern that the street furniture would encroach on a limited public footway in a busy pedestrian location adjacent a bus stop at a cross roads junction.
- 7.4. The Design Manual for Urban Roads and Streets (2013) divides the pedestrian pavement into three zones – the strip, to accommodate active uses associated with commercial premises; the pedestrian footway to accommodate pedestrian traffic; and the kerb, to allow for overhanging of vehicles and for locating street furniture such as light standards and etc. DMURS provides for a minimum standard of 1800mm for a pedestrian footway to enable two pedestrian walking in opposite directions to pass one another, excluding any 'strip' designed to accommodate outdoor uses associated with commercial premises, such as outdoor terraces, and kerbs. Higher standards would apply within high value contexts such as city centres.

- 7.5. The proposed tables would be located within the pedestrian footway as this old city centre area has no designated strip. However, the pavement is reasonably wide and the proposed terrace, which was in place at time of inspection, leaves an unobstructed width of footway of just in excess of the minimum 1800mm standard. As already noted, a clear footway of in excess of 1.8m would be recommended under DMURS within such a city centre location, especially along this heavily trafficked pedestrian route between Connolly Station and Henry Street. This would support the concerns raised by in the report of the Gardaí.
- 7.6. However, I would accept the applicant's argument that precedent has been set by similar existing terraces in a similar pavement context on Talbot Street, including at Le Bon Crubeen and Spar (as the details of license applications are not available on the Council's website I could not confirm whether licenses have issued for these premises). Also, the pedestrian footpath on the north side of Talbot Street is wider than that on the southern side and can be expected to easily accommodate any potential displacement of pedestrians. Whilst the terrace is adjacent a bus stop, the signage on the stop confirms it is a set down stop only, as indicated by the applicant, and therefore the stop would not be expected to attract queuing. Accordingly, I consider the proposal to be acceptable.
- 7.7. For clarity, the hours of operation are indicated as 12pm to 11pm. I consider the Planning Officer's recommendation that the screens and furniture be stored inside the premises outside the operation period to be reasonable. It would also be appropriate to limit the screen height, design and any advertising on same in accordance with the declaration submitted by the applicant with the application.

8.0 Recommendation

8.1. I recommend that permission be **GRANTED** for the reasons and considerations set out under section 9.0 below, subject to the conditions set out under section 10.0.

9.0 Reasons and Considerations

It is considered that the proposed development would be consistent with the land use zoning objectives for the area, Z5 '*To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity*, and with the provisions of the Dublin City Development Plan 2016-2022, under section 16.30, concerning such development.

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| 1. | <p>(a) The outdoor seating space, inclusive of any enclosing screens, shall not be greater than 6.8m in length, shall not extend greater than 1.5m in depth from the front building line and shall not accommodate more than three tables and nine chairs.</p> <p>(b) The outdoor seating area shall be screened off with a free-standing screen (or screens) with a maximum height of 1m above ground level and the screens shall include no advertising other than the name of the premises.</p> <p>(c) The street furniture and screens shall be stored indoors during times outside the operational period of 1200 hours and 2300 hours.</p> <p>Reason: In the interest of proper planning and development and the visual amenities of the street.</p> |
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John Desmond
Senior Planning Inspector

6th July 2018

