



An
Bord
Pleanála

Inspector's Report ABP-300963-18

Development	Change of use from bookmakers shop to off-licence
Location	24 Ballyhooly Road, Dillions Cross, Cork
Planning Authority	Cork City
Planning Authority Reg. Ref.	17/37639
Applicant(s)	Gary O'Donovan
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	St. Joseph's Community Association
Observer(s)	None
Date of Site Inspection	20 th June, 2018
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. No. 24 Ballyhooley Road, Dillons Cross, Cork is located to the north-west of the city, in an area that may be considered part of the city's inner suburbs. The site is at the north-eastern end of Dillons Cross, at the junction of Ballyhooley Road and Old Youghal Road. There is a part two-storey, part single-storey structure on the site that is vacant. It is flanked to the north by a derelict single-storey structure fronting onto Ballyhooley Road and to the north-east by a single-storey building containing a fast food outlet fronting onto Old Youghal Road. There is a wide variety of commercial and residential uses in the immediate vicinity.

2.0 Proposed Development

2.1. The proposed development would comprise the change of use of the ground floor of the existing building to an off-licence. The gross floor area of the off-licence would total 53.11 square metres.

3.0 Planning Authority Decision

3.1. Decision

On 23rd January, 2018, Cork City Council decided to grant permission for the development subject to 9 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted development plan provisions, reports received and third party objections made. It was noted that the site is located in an area zoned 'Local Centre' and it was submitted that an off-licence was a local commercial service. It was stated that there is no other off-licence within the Dillons Cross local centre and it was noted that there are no residential properties immediately adjoining the site. Third party concerns about anti-social behaviour were acknowledged but the location of

the proposal within a local centre was again referenced. The established arrangement of on-street parking was noted and it was submitted that significant footfall to the business would be pedestrian traffic. It was acknowledged that the opening hours of off-licences are regulated by the Intoxicating Liquor Acts. A grant of permission was recommended.

3.2.2. Other Technical Reports

The Environment Engineer had no objection to the proposal.

The Drainage Engineer had no objection to the proposal.

The Roads Engineer had no objection to the proposal.

3.3. Prescribed Bodies

Irish Water had no objection to the proposal.

3.4. Third Party Observations

The planning authority received 26 third party objections to the proposal raising concerns relating to anti-social behaviour, litter, parking, oversupply of off-licences in the area, and nuisance.

4.0 Planning History

I have no record of any previous planning application or appeal relating to the site.

5.0 Policy Context

5.1. Cork City Development Plan 2015- 2021

Zoning

The site of the proposed development is located in an area focused around Dillons Cross that is designated 'ZO 10 Local Centre' in the North Central Suburbs. It is the objective "To protect, provide for and/or improve the retail function of local centres and provide a focus for local centres. The Plan states that local centres provide for

convenience shopping, lower order comparison shopping and local services outlets. Limited retail offices are acceptable in these local centres to serve local needs.

Off-Licences

The Plan notes that off licences provided in the city's commercial areas (local, neighbourhood and district centres and the Commercial Core Area) provide a valuable local commercial service. It is stated that the Council will ensure that centres provide a real diversity in retail provision that suits the needs of communities by ensuring that the proportion of off licences within local and neighbourhood centres is not disproportionate to the number of units but acknowledges that the number and control of off licenses will primarily be a licensing issue. The consideration of proposals for off-licences is to have regard to the amenities of nearby residents, i.e. noise, general disturbance, hours of operation and litter. It is also stated that the proportion of off licences should not generally exceed 10 per cent of retail units or retail frontage within any local or neighbourhood centre.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

- The proposed development fails to comply with the City Development Plan provisions as they relate to off-licences, notably with regard to the proportion of off-licences not exceeding 10% of retail units or retail frontage within a local centre. There are a mere 4 retail units within the local centre. Thus, there would need to be 9 existing retail units within the local centre before an off-licence could be considered.
- There is an excessive number of outlets selling alcohol in the area.
- There would be a lack of parking, servicing provisions and adverse impacts on pedestrians.

- There are anti-social impacts directly linked to off-licences. The appellants reference the anti-social issues that occurred when there was an off-licence opened in the area.
- There is new legislation at cabinet stage where City and County Councils are to be given new powers to regulate the opening of off-licences.

6.2. Applicant Response

The applicant's response to the appeal may be summarised as follows:

- The Planner has rationalised and applied the proper planning principles in making her recommendation.
- The appeal appears to ignore the zoning of Dillons Cross as a local centre.
- The change of use is a valuable local commercial service and is a small off-licence facility.

6.3. Planning Authority Response

The planning authority stated that it had no further comments to make.

7.0 Assessment

7.1. Introduction

I propose to consider the grounds of appeal raised by the third party under the headings of compliance with development plan provisions, overprovision of off-licences, traffic impact, anti-social behaviour, and new legislative provisions.

7.2. Compliance with Development Plan Provisions

7.2.1 The appellants submit that the proposed development fails to comply with the City Development Plan provisions as they relate to off-licences, notably with regard to the proportion of off-licences not exceeding 10% of retail units or retail frontage within a local centre. It is submitted that there are a mere 4 retail units within the local centre and because of this, there would need to be 9 existing retail units within the local centre before an off-licence could be considered. It is my submission to the Board

that to determine that there would need to be a certain number of other retail outlets before considering this proposal in this local centre, in isolation of any consideration of the range of retail types, defies any logic of planning for the enhancement and further development of an established local centre. The provision in the Development Plan is solely a provision that is not a stated policy or objective. Furthermore, the provision expressly states: “*The proportion of off-licences should, therefore, not generally exceed 10 per cent of retail units or retail frontage ...*” The word ‘generally’ is critically important because a sensible approach is necessary to provide some semblance of balance and flexibility when allowing for the further development of a local centre. The proposed development clearly does not contravene development plan provisions as they relate to a proportionate response to the range of retail uses within a local centre.

7.3 Overprovision of Off-Licences

The appellants argue that there is an excessive number of outlets selling alcohol in the area and submit that two off-licences are in close proximity to Dillons Cross local centre. While it may be concluded that there are off-licences in proximity to the local centre, it is evident that there is no off-licence in the local centre. The provision of such facilities within local, neighbourhood and district centres is promoted in the Development Plan at these locations over other locations. This principle of an off-licence within Dillons Cross local centre, where there is no off-licence, is wholly compatible with development plan provisions.

7.4 Traffic Impact

The appellants raise concerns that there would be a lack of parking, there would be servicing difficulties and that adverse impacts would arise for pedestrians. It is first noted that the existing building was previously in commercial use. It is then acknowledged that there are a wide range of commercial uses in the immediate vicinity of this site which require servicing and which are served by on-street parking. The appellants have ably demonstrated that several of the commercial premises in the wider area include public houses, which themselves require regular servicing by larger vehicles. It would be entirely disingenuous to conclude that the proposed off-

licence would result in any significant additional traffic and servicing problems at this local centre that would warrant a refusal of permission on traffic safety grounds.

7.5 Anti-Social Behaviour

The appellants reference anti-social issues arising in this area. These anti-social behaviour problems are problems that are required to be addressed outside of the planning system. To suggest that the functioning of an office-licence shop would create anti-social problems or fuel them at this location is at best exaggerated. The anti-social problems referenced by the appellants are evidently law and order issues. The need for control of such behaviour by An Garda Síochána or other such services is required and is outside of the scope of the Board's considerations. The proposed development is a permissible use in this local centre and the development plan promotes the siting of such development in these local centres,.

7.6 New Legislative Provisions

The appellants submit that there is new legislation at cabinet stage where City and County Councils are to be given new powers to regulate the opening of off-licences. The Board will note that such legislation has not been adopted and, to date, there are no known provisions arising that would affect the Planning and Development Act to which the Board should have regard.

8.0 **Recommendation**

- 8.1. I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

9.0 **Reasons and Considerations**

Having regard to the established commercial use on the site, to the location of the proposed development within Dillons Cross local centre, and to the compatibility of the proposed development with the zoning objectives as they relate to this local centre, it is considered that, subject to compliance with the conditions set out below, the proposed off-licence use would not seriously injure the residential amenities of

the area, would be acceptable in terms of traffic safety and convenience, and would otherwise be in accordance with the proper planning and sustainable development of the area

10.0 Conditions

1. Details of the external shopfront finishes and signage shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

Kevin Moore
Senior Planning Inspector

2nd July 2018