



An
Bord
Pleanála

Inspector's Report
301336-18

Development	Change of use from retail to bakery and coffee shop. Internal alterations and new shopfront with canopy and signage.
Location	5 O'Connell Street, Dublin 1
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2033/18
Applicant(s)	Donut C and B Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party v Grant
Appellants	Donut C and B Ltd.
Date of Site Inspection	17 th July 2018
Inspector	Suzanne Kehely

1.0 **Site Location and Description**

- 1.1. The development site relates to a unit at basement and ground levels in a mid-terraced premises known as 'Prosperity Buildings' on the east side of O'Connell Street Upper. It occupies the southern bay of a 3 bay elevational composition and is contained within the original stone pilasters/corbels – although one corbel appears to be missing. The unit is centrally located just a few ground floor units from the Henry Street/ Earl Street shopping pedestrian thoroughfare in the north inner city.
- 1.2. The shopfront is traditional with a symmetrical vertically proportioned design featuring a central recessed splayed doorway with timber spandrels, a well-proportioned timber fascia and elegantly turned timber display window frames. There is a band of glazing and timber louvres between the door head/display and fascia which visually drops the fascia due to the colouring and solid elements. There are old chequered tiles in the doorway entrance. The basement extends under the footpath and is lit through traditional toughened glass setts in the pavement which are in good order. There is also a skylight over the stairwell to the rear.
- 1.3. The unit is vacant at present. It is one of two retail units in this block between Cathedral Street and Earl Street - the other being McDowell's jewellers. The other units are food related.
- 1.4. The upper levels are used as offices and also as a restaurant dining area for the nearby ground level café. The entrance to the offices is adjacent to the unit and is through an original recessed doorway - a pair of timber framed glazed doors which are Edwardian in style and is marked overhead by traditional gilt engraved lettering on black at fascia level (and embossed black lettering on the glazing underneath) are all consistent with the era of the decorative stone building. There is some clutter at fascia level with wiring and bracketed lighting.

2.0 **Proposed Development**

- 2.1. The proposed development is for a change of use from retail to café and bakery at both ground level (50.26sq.m.) and basement level (79.2 sq.m.) Works involve:
 - Revised floor layout.

- Complete replacement of shopfront with relocated entrance door to the side and flush with building line. All existing elements of shopfront and entrance are to be removed. Internally the original stairs to the rear is to be removed and a new stairway is proposed in the centre.
 - New signage together with canopy and lighting are proposed to the elevation.
 - The design is modern and simple and incorporates the use of stone and timber all within the original stone pilasters framing the original unit.
- 2.2. The layout incorporates a serving counter, table and chairs for 9 persons and a display unit at ground level. At basement level the layout provides for toilets, utility and storage

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority issued a notification of a decision to REFUSE permission for the following reason:
- The proposed development for a change of use from retail to bakery and coffee shop on a street located in the City Centre Retail Core and designated as a Category 1 Shopping Street would be contrary to the primary objective of this designation which is to strengthen the retail character of the principal shopping streets and to provide an appropriate mix of complementary uses. It would result in a disproportionate number of complementary uses at this location and would be contrary to Section 7.6.1 of the Dublin City Development Plan 2016-22, The O'Connell Street Architectural Conservation Area Scheme of Special Planning Control for O'Connell Street and Environs, 2016 and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. The planning report refers to:
- Development objectives for the area and governing policies and schemes for retailing, conservation and development control aspects such as signage.

- The optimal mix with a predominance of ground floor retail with cafes etc being considered on their merits and only permitted provided the primary retail function of the street is not undermined.
- A 2015 land use survey in the preparation of the planning scheme confirmed that of the 8 units in this block fronting O'Connell Street Upper that 3 were restaurants/cafes, 1 convenience store, a jewellers, a vacant unit and the subject site. The predominant use was non-retail.
- The proposal would result in the further erosion of the retail offer on the street and would result in a disproportionate number of complementary uses for this section of the Street and be contrary to section 10.5.2, the category 1 designation and the planning scheme and the ACA.

3.2.2. Other Technical Reports

Drainage: no objection subject to conditions

3.2.3. Objections

- North Great Georges Street Preservation Society objects to inappropriate development further to the replacement of sash windows with uPVC windows in the upper floors.

3.3. Prescribed Bodies

3.3.1. TII: No observations to make.

3.3.2. No response from Irish Water, DoAHG, an Taisce, Heritage Council, Arts Council, Failte Ireland or NTA.

4.0 History

No cases refer to site.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is in zone z5 where it is an objective 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'
- 5.1.2. Chapter 7 sets out the retailing strategy and section 7.6.1 refers to the Primacy of the City Centre & Retail Core Area and rationale for designation and grading of shopping streets as part of its implementation strategy.

In order 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, the premier shopping streets in the city centre retail core are designated category 1 and category 2 shopping streets. The purpose of this designation is to protect the primary retail function of these streets as the principal shopping streets in the retail core with an emphasis on higher order comparison retail and 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 a cafés, bars, restaurants and galleries. Also ground floors should have a minimum commercial floor to ceiling height (4-5m) for design, use and adaptability reasons.

- 5.1.3. The land use criteria is set out in Appendic 3.

The land-use strategy is to ensure an appropriate retail amount and a rich mix of uses in the retail core is set out by way of the designation of Category 1 and 2 Streets and the Special Planning Control Schemes....The purpose of this designation is to protect the primary retail function of these streets as the principal shopping streets in the retail core and to strengthen the retail character of the central shopping core with an emphasis on higher order comparison retail and a rich mix of uses....The Category 1 designation restricts the non-retail uses at the ground floor level of the main shopping streets, with a land-use emphasis in favour of higher order retail use at ground floor level. Other non-retail uses, i.e., pubs, cafés, restaurants, will be

considered on their merits; such developments will be permitted provided the primary retail function of the street will not be undermined.

5.1.4. Built Heritage

- Chapter 11: This chapter sets out a detailed policy approach to managing the built heritage. Being within an Architectural Conservation Area of significance, the site is within the Scheme of Special Planning Control, O'Connell Street and Environs 2016. In this scheme the land use policy seeks more intensive use of the upper floor and basement levels of buildings in the area
- Objective CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.
- CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.
- Enhancement opportunities may include:
 - Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting
 - Re-instatement of missing architectural detail or other important features
 - Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area
 - The repair and retention of shop- and pub-fronts of architectural interest.
- It is the Policy of Dublin City Council that Development will not:
 1. Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area
 2. Involve the loss of traditional, historic or important building forms, features, and detailing including roof-scapes, shop-fronts, doors, windows and other decorative detail
 3. Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors
 4. Harm the setting of a Conservation Area
 5. Constitute a visually obtrusive or dominant form.

- Changes of use will be acceptable where, in compliance with the zoning objective, they make a positive contribution to the character, function and appearance of Conservation Areas and their settings. The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications and will promote compatible uses which ensure future long-term viability.
- It is not only visual elements that contribute to the character of a Conservation Area, land-uses and activities are fundamental to the character and appearance of Dublin's Conservation Areas. Certain uses are of historic importance to specific areas and some are of national or international importance; these have influenced the evolution and built form within the area and may continue to have a strong effect on its character at present.
- Different users of buildings and spaces also change and shape their character over time and some conservation areas are strongly influenced by the communities which occupy them. In considering applications for change of use, the contribution of uses to the character of areas needs to be considered, the value that the local community places on particular buildings or uses is also important.'

5.1.5. Key objectives of the Scheme of Special Planning Control include:

- To protect and promote uses that contribute to the special interest or character of specific premises.
- To promote an appropriate mix and balance of uses
- To seek more intensive use of upper floors and basement levels
- To redress the decline in quality and presentation of buildings and shopfronts
- Control advertisements structures and exhibition of advertisements
- To secure the retention of historic fabric

6.0 Grounds of Appeal

6.1. The decision to refuse is appealed with reference to the following:

- The unit is one of 7 in the block facing O'Connell Street.
- The land uses are listed for all units in the East side of O'Connell Street Upper.
- The bakery is a retail use and is an important component of the proposal.

- It is a high-quality boutique coffee shop and bakery like confectionary/boulangerie type outlets commonplace in premier shopping streets in European cities. It will sell a range of confectionary and pastries and not just donuts.
- It will be a complementary use and will contribute to the vitality and vibrancy of a premier shopping street. It will provide a rest area for shoppers.
- It will create an active day time street frontage and will not contribute to anti-social behaviour.
- As a quality European style café it is not contrary to section 7.6.1 which seeks to restrict lower-order uses. It is a positive contribution in line with section 16.29.
- The building is of no architectural by itself – happy to accept any condition by the Board
- The use as a café is not included in the not permitted category specified in section 1.4 of the planning scheme.
- Precedent for similar development on category 1 street (Dawson St) where permission was granted for change of use from retail on Dawson Street. The inspector's report acknowledges the complementary use for a main shopping area and contribution to vitality of the area.
- 50sq.m. is not a viable floor area for retail use.
- There is a lack of cafes in the north inner city based on research conducted for 'Re-Imagine Dublin One Project. Increasing more cafes will increase footfall.

Attachments:

- Letter of support from We Are Dublin Town which refer to research identifying satisfaction with retail offer but insufficient cafes. A traditional bakery would add to the theatre of the area.
- Letter of support from Premier Business Centres who manage 100000 sqft of serviced offices in the Dublin region stating that 'Additional outlets serving a range of food assist in selling location and providing services required by occupants.
- Letter of support from a firm of solicitors who occupy offices in the offices overhead believing proposed use to add to the general district and serve as an amenity to staff and clients – an important factor to them.

6.2. Planning Authority Response

6.2.1. No further comments to add to report.

7.0 Assessment

7.1. This appeal is against a decision to refuse permission for change of use from retail to café and bakery use in a Category 1 shopping street on grounds of conflict with the retail strategy for the area which is also included in the O'Connell Street and Environs Architectural Conservation Area governed by a Scheme of Special Planning Control. The issue centres on the principle of development in terms of compatibility with both, retailing strategy for the city and the enhancement of an architectural conservation area.

7.1.1. The Street is designated as a Category 1 shopping street as an integral element to the retail strategy for the City. In this class of street, retailing is the priority aim so as to achieve a retail core, although cafes as complementary uses are permissible as compared to specific uses that are unequivocally not permitted. Accordingly, it is permitted in principle under certain conditions.

7.1.2. From my reading of the policy, permission for a non-retail use such as proposed is dependent on it not compromising the consolidation of retail uses. In reality, there is a minority of retail uses, with many being food related/convenience type uses, in this stretch of O'Connell Street in addition to the further reaches of this principal linear route. The location is however within 5 units of the point of intersection with a major retail thoroughfare extending between Mary Street/Henry Street/Earl Street/Talbot St and therefore well placed to consolidate this retail core, Accordingly I would have reservations about permitting another non-retail use at this strategic location. To restrict this nature of development is I consider also consistent with the Planning Scheme for the O'Connell Street Area which also seeks to improve retailing although its remit is broader. The objectives of this scheme are also architectural in so far as it promotes the continued functioning of the buildings but in a manner that also retains and enhances the original architectural features of interest, thereby ensuring the unique identity of the area is maintained. In this case while it is proposed to remove the louvres and heighten the glazed elevation and consideration has, I note, been given to venting of basement and integrating this with the shopfront, the proposal

seeks to alter a façade which has many traditional elements consistent with the original character of the building unit. It will introduce a modern asymmetrical alignment and while elegant with good attention to detail it will involve removing the splayed and tiled doorway and joinery elements. The need for a canopy, although open ended would contribute to visual clutter which would detract from the intrinsic visual quality of the building façade, obstruct visibility of the main building entrance and its more subtle signage. On balance and in view of ACA context I do not consider the design could be described as being 'Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area' as advocated in the development plan.

7.1.3. The applicant however has indicated a willingness to comply with any requirements relating to the shopfront. In the event of permission, it would, perhaps, be more compatible with the conservation objectives to retain the shopfront. Minor alterations such as remodelling/refacing the spandrel, inserting a stone plinth, alterations to louvres, lettering and possible backlighting could be subject for written agreement.

7.1.4. Notwithstanding the shopfront details, the nature of the use also has visual and environmental issues. O'Connell Street has been particularly blighted by food related uses associated with takeaway foods and contributing to littering and also the visual clutter of prominent signage and illumination. I would have reservations about the nature of the use which sells baked goods and with only 9 seats and an extensive counter and on-site baking, would amount to a take-away premises. In this case the applicant makes the case that this is a boutique style café with quality confectionary and pastries akin to a quality patisserie/boulangerie that is needed to support the retailing. I accept this could be so, if the public realm is well managed, but not at the proposed location having regard to its strategic location for consolidation of retailing and to the pattern of uses along O'Connell Street. While I note the support for more café uses in the environs, I consider such a use in these environs would be better located in a more peripheral location to this category one shopping area. In this regard I note the case referred to in Dawson Street and cited as a precedent is not directly relevant as it is a Category 2 shopping street and not a Category 1 street as is O'Connell where retailing uses are sought to be concentrated to support comparison shopping. I concur with the planning authority's appraisal and conclusion that the proposed development would not comply with the overall retail

strategy for shopping streets. Nor would such, be, on balance, compatible with the objectives as set out in the current Scheme of Special Planning Control for O'Connell Street and Environs (2016) in respect of retaining historic fabric and enhancing presentation of buildings along O'Connell Street. I do however consider the latter issue could be addressed by condition and does not constitute substantive grounds for refusal.

8.0 **Appropriate Assessment**

8.1. In view of the nature of the proposed development which involves a change of use in an urban area, I do not consider the issue of appropriate assessment arises.

9.0 **Recommendation**

9.1. Refusal of permission.

10.0 **Reasons and Considerations**

- 1 The proposed development for a change of use from retail to bakery and coffee shop on a street located in the City Centre Retail Core and designated as a Category 1 Shopping Street would be contrary to the primary objective of this designation which is to strengthen the retail character of the principal shopping streets and to provide an appropriate mix of complementary uses. It would result in a disproportionate number of complementary uses at this location and would undermine the retail strategy for the city centre as set out in Appendix 3 of the Dublin City Development Plan 2016-2022 and the Scheme of Special Planning Control for O'Connell Street and Environs, 2016. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Suzanne Kehely
Senior Planning Inspector
22nd July 2018