



An
Bord
Pleanála

Inspector's Report ABP-302203-18

Development	Change of use of premises within a ground floor unit of c.90m ² from a café restaurant & deli to a fast food take-away outlet.
Location	47A & B, Bulfin Road, Inchicore, Dublin 8
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4168/17
Applicant(s)	Wu Chan
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Catherine Byrne TD Bulfin Estate Residents Association Joanne Farrell Yihui Chen
Observer(s)	Patricia Curry

Date of Site Inspection

22nd October 2018

Inspector

Ronan O'Connor

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	6
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Applicant Response	9
6.3. Planning Authority Response.....	9
6.4. Observations	9
6.5. Further Responses.....	10
7.0 Assessment.....	10
8.0 Recommendation.....	13
9.0 Reasons and Considerations.....	13

1.0 Site Location and Description

- 1.1. The appeal site is located on the northern side of Bulfin Road and comprises of two commercial units within a parade of 7 units. The surrounding area is predominantly residential in nature.

2.0 Proposed Development

- 2.1. Change of use of premises within a ground floor unit of c.90m² from a café restaurant & deli to a fast food take-away outlet.

3.0 Planning Authority Decision

3.1. Decision

Grant permission. Conditions of note include:

- Condition 2 – Proposals to control odour and fumes to be submitted to the planning authority.
- Condition 4 – Does not approve or authorise residential unit at first floor level.
- Condition 6 – Operational hours 12pm to 12am.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Report Dated 4th Jan 2018

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

Points of note are as follows:

- Applicant has not provided a map indicating the number of food takeaway premises in the area/proximity from schools/within a 1 km radius.
- No indication of ventilation system.
- Change of use to takeaway is consistent with the zoning objective/would improve the provision of food takeaway services.

- Operation of the first floor is not indicated.
- Further Information request in relation to (i) map showing number of takeaways in the area (ii) measures to address traffic generation (iii) numbers of staff (iv) operating hours (v) operation at first floor level (vi) ventilation system (vii) shopfront details.

Report Dated 28th June 2018

- Provision of 12 fast food restaurants in a 1km radius does not appear excessive.
- 1km radius includes number primary and secondary schools. However notes the Development Plan does not specify the number or concentration of uses which is considered to be excessive.
- Recommendation was to grant subject to conditions.

3.2.2. Other Technical Reports

Drainage – No objection.

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. A number of third party observations were received. The issues raised are covered within the grounds of appeal and within the observations on the appeal.

4.0 **Planning History**

4.1.1. 2996/13 – Grant – Retention of café/restaurant & deli use – Conditions of note include:

- Condition 2 - The delicatessen shall be used only for the sale of cold food, sandwiches and hot or cold drinks for consumption off the premises. It shall not be used as a hot food takeaway unless a separate grant of permission for this use is obtained.

- REASON: In the interests of the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The relevant development plan is Dublin City Council Development Plan 2016-2022. The site is zoned Z3 – To provide for and improve neighbourhood facilities’.

Relevant policies and standards include:

- Section 16.29 – Restaurants- Provides guidance for the consideration of restaurant proposals.
- Section 16.25 – Takeaways – Provides guidance for the consideration of takeaway proposals.

5.2. Natural Heritage Designations

- 5.2.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Four separate Third Party Appeals have been received. The Grounds of Appeal are summarised below.

1. Catherine Byrne TD

- Row of shops already includes a Chinese Takeaway and a deli-takeaway at No. 49.
- Already a high concentration of takeaways in Inchicore (list of 12 no. takeaways provided).
- Another takeaway would be detrimental to the proper development of the area.

- Would be contrary to Development Plan policy in terms of providing diverse mixed retail developments.
- Urban design context.
- Traffic hazard.

2. Joanne Farrell

- Decision to grant permission did not address concerns of residents.
- Proposal does not contribute to the local community or enhancement of our lives.
- Illegal parking bedside shops
- Development will result in litter, anti-social behaviour and environment pollution.
- (check other submission)

3. Bulfin Estate Residents Association

- Would not comply with zoning objective i.e. would not improve neighbourhood facilities.
- Proposal would result in 4 out of 7 units related to serving food and 3 out of 7 units being fast food outlets.
- A Chinese takeaway is located 5 doors away.
- Contrary to Policy 16.24 – need to maintain a suitable mix of retail uses/need to prevent excessive concentration of takeaways.
- Already a takeaway within less than 20 metres, within a 400m radius there are 6, and within 1km distance there are 14/this is more than sufficient.
- Traffic Issues – already a shortage of car parking spaces to deal with the 5 existing retail units/Proposal will put extra pressure on limited parking spaces and will increase road traffic.
- Increase noise levels and late night pedestrian movement/is a residential area/all other shops except for the takeaway cease trading in the evening.

- Is within close proximity to educational establishments – post secondary College of Further Education within 100m, a National and Secondary School are within 500m, three pre-school groups within 50m.
- Children’s Hospital within visual distance of Bulfin Road – proposal will not add value to the largest capital investment in the history of the state.

4. Yihui Chen

- Currently operating a Chinese takeaway within the same block only 5 doors from the proposed takeaway.
- No demand or desire for another takeaway in the area.
- Significant local objection to the proposed development.
- Is contrary to the policies of the Development Plan.
- Previous permission included a condition restricting a takeaway use.
- Proposed use is only ‘open for consideration’ and not ‘permitted in principle’.
- No Environmental Health or Roads reports.
- Planning Officer noted that the adjacent Institute of Further Education includes secondary level courses but did not assess this further.
- Many more than 12 fast food premises within 1km of the site/planning authority failed to establish the exact number of takeaways/two in a short block of commercial units is in itself considered excessive.
- Traffic impact - Deliveries is clearly a large part of business.
- Section 14.8.3 (Z3 Zoning) states that such facilities should cater for people living within a 5 minute walk of premises.
- No condition limiting the nature of deliveries/would be impossible to enforce/traffic impact has not been addressed.
- Noise from motorbikes greater than car noise.
- No details of deliveries/servicing have been provided.
- Proposal would create a traffic hazard.
- Opening hours will impact on the amenities of residents.

- Planning officer did not consider impact on residential properties.
- No consideration of Section 14.7 'Transitional Zone Areas' was undertaken.
- Other decisions are referenced including Appeal Ref 234821 (3332/08) Chapelizod – Takeaway refused for 4 reasons.
- There are restrictions in the amount of space available for waste facilities – leading to odour, noise and vermin problems.
- Chapelizod has no takeaways in the village – one takeaway was considered excessive here – two takeaways in the same block is certainly too much.
- Proposal does not help achieve a range of shops – contrary to Policy 16.25.

6.2. Applicant Response

6.2.1. None.

6.3. Planning Authority Response

6.3.1. None.

6.4. Observations

6.4.1. One observation has been received from Patricia Curry, 48 Bulfin Road, Dublin 8. This is summarised below:

- Business owner and occupier.
- Excessive concentration of takeaways in the area.
- Proposed menu will not provide healthy food.
- Will lead to a deterioration of environment.
- Impact on existing business.
- Gathering of people – leading to noise, disturbance, intimidation- other takeaway only opens in the evenings.
- Will target students of the Inchicore College of Further Education.
- Large number of residents are opposed to development/have signed petition.

- Other examples of takeaways are not in similar areas/Drimnagh is a more realistic comparison.
- No measures to address litter.
- Close to schools/college/children's hospital.
- No clear plan to deal with fumes and smells.
- Increase in pedestrian and vehicle traffic
- Will not improve diversity of retail or complementary non-retail shopping.

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 the proposed development/ Concentration of Takeaways/ Balance of Uses
- Impact on Surrounding Amenity
- Traffic
- Other Issues
- Appropriate Assessment
- Environmental Impact Assessment

7.2. Principle of the proposed development/ Concentration of Takeaways/ Balance of Uses

7.2.1. Under the Z3 'Neighbourhood Centres' Zoning matrix a 'take-away' use is 'open for consideration'. An open for consideration use is one which may be permitted where the planning authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have

undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area. The land-use zoning objective is to provide and improve neighbourhood facilities. The consideration of whether the proposal for a takeaway helps to provide and improve neighbourhood facilities cannot be considered without having regard to Policy 16.25 'Takeaways', which seeks to prevent an excessive concentration of takeaways and to ensure that the intensity of any proposed takeaway is in keeping with both the scale of the building and the pattern of development in the area.

7.2.2. The Third Party Appellants have stated that there are sufficient takeaway facilities in the area, and a Third Party Appellant's has provided a list of 12 no. takeaways operating in the area. While the applicants have not responded to the Third Party Appeal, a map was provided at further information stage indicating the location of food outlets within a 1km radius of the appeal site, as well as the location of educational establishments. This identifies a total of 13 food outlets, most of which are likely to have a take-away element. As such there is relative consistency from both parties in relation to the actual number of takeaways in the area.

7.2.3. Having regard to the map provided at further information stage, it is apparent that these takeaway uses are relatively dispersed within this 1km radius. The current proposal is to occupy two units within a total of seven units, for a use as a takeaway. There is an existing takeaway use within this parade of shops. Given that the proposed takeaway is occupying two units within this small parade, this results in a takeaway use that is relatively 'intense' in terms of its impact, and is not in keeping with the scale and pattern of takeaways in the area. The immediate concentration of takeaways within this parade of shops excessive, with the proposal resulting in 3 of the 7 units being takeaway uses. This is contrary to the zoning objective for the area, in my view, which seeks to provide a range of services within walking distance of the local population.

7.2.4. In terms of the proximity to schools, the appeal site is relatively close to the Inchicore College of Further Education. This is an institution primarily aimed at adults, and as such is not explicitly considered when considering the proximity to this proposed takeaway. The nearest readily identifiable school is the Our Lady of Lourdes School which is 650m from the appeal site. I do not consider that the proximity of the

proposed takeaway uses to the nearest school would likely result in the pupils of this school frequenting this use on a regular basis.

7.3. Impact on Surrounding Amenity

- 7.3.1. Section 16.25 'Takeaways' has regard *inter alia* to the effect of noise, general disturbance, hours of operation, litter and fumes on the amenities of nearby residents. I consider that the concentration of takeaway uses within this relatively small parade of shops, in close proximity to surrounding residential uses, would have an adverse impact on surrounding residential amenity as a result of noise and general disturbance. As noted above, three of the seven units would be in operational take-away uses in the evening time and this is likely to result in a significant increase in late evening pedestrian activity. I also note that the opening hours from 12am to 12pm are likely to coincide with pub closing hours in the area, resulting in additional and possibly noisy activity in the immediate vicinity of residential uses.
- 7.3.2. In relation to odour issues, it is possible that details of proposed extracts and flues can be provided by way of condition. However, there is no details in relation to refuse storage facilities, and the site appears to be extremely constrained in terms of available space in which to store waste and recycling. As such, in the absence of any proposals for the storage of waste and recycling, it is likely the proposal would lead to amenity issues for surrounding development, should waste be stored to the front of the premises.
- 7.3.3. In relation to litter issues, these type of uses can lead to an increase in littering. However, details of additional bins either externally or internally can be provided by way of condition.

7.4. Traffic

- 7.4.1. Traffic impacts, including the issues of parking and noise and disturbance from delivery vehicles have been raised by the Third Parties. From my observations on site, there are clear issues relating to very limited parking that is available in close proximity to this parade of units. However, I do not consider that the takeaway use, in and of itself, would worsen these parking issues. The servicing of such uses is not so dissimilar to the servicing of the existing commercial units within the parade and is short-term in terms of its impact. Similar considerations too apply to the deliveries

from the use, the impacts of which also short-term and intermittent. In this regard, the enforcement of legal parking is a matter for the local authority.

7.5. Other Issues

7.6. Design – There is limited detail in terms of the design of the shopfronts and I note the planning authority imposed a condition relating to same. Should the Board be minded to grant, this condition should be re-imposed.

7.7. Appropriate Assessment

7.7.1. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

7.8. Environmental Impact Assessment

7.8.1. Having regard to the nature and scale of the proposed development, a change of use and external works, and having regard to the separation distance to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

8.1. Refuse permission.

9.0 Reasons and Considerations

Having regard to the zoning objective for the site and the policies of the current Dublin City Development Plan 2016-2022, it is considered that the proposal would result in an excessive concentration of takeaway uses within this parade of units, resulting in a limited range of services, contrary to the Z3 zoning objective ‘to provide for and improve neighbourhood facilities’. Furthermore, the excessive concentration of takeaways in this location would lead to a loss of amenity to surrounding residential uses, having regard to noise and disturbance. In addition, the lack of

sufficient storage space for refuse and recycling is likely to lead to a loss of amenity for the surrounding area, having regard to odour and nuisance. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Ronan O'Connor
Planning Inspector

23rd October 2018