



An
Bord
Pleanála

Inspector's Report 302550-18.

Development	Change of use of permitted off licence use to coffee shop with ancillary take away facility; the erection of a shop front fascia signage; external lighting and all associated site works.
Location	Unit 1 Market Square, William O'Brien Street, Mallow, County Cork
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	185442.
Applicant	Insomnia Coffee Company.
Type of Application	Permission.
Planning Authority Decision	Permission with conditions.
Type of Appeal	Third Party.
Appellant	Sylvester Rabitte
Observer(s)	None.
Date of Site Inspection	22 nd November 2018.
Inspector	Derek Daly.

1.0 Site Location and Description

- 1.1. The proposed site is in the centre of Mallow town. The site fronts onto the western side of William O'Brien Street a commercial street running northwards off Thomas Davis Street the main thoroughfare route in the town centre and the site is approximately 45 metres north of the junction of both streets.
- 1.2. The appeal site itself is a three storied terraced property fronting onto the inner edge of the public footpath currently vacant but was formerly in use as an office licence on the ground floor. The upper floors are in office use. There are retail units located on either side of the appeal site.
- 1.3. The site has a stated area of 0.056 hectares.

2.0 Proposed Development

- 2.1. The proposed development as submitted to the planning authority on the 7th of June 2018 was for;
 - The change of use of permitted off licence use on the ground floor to coffee shop with ancillary take away facility. The proposal provides for a coffee shop area with a seating area of 46, preparation areas, toilets and a manager's office.
 - The erection of a shop front timber fascia signage replacing an existing fascia sign.
 - New external lighting replacing existing external lighting.
 - No other external alterations are proposed to the street elevation.
 - All associated site works.
- 2.2. The gross floor area of the development is stated as 156m².
- 2.3. It is proposed to connect to existing public piped services.
- 2.4. Further information was submitted on the 26th of July 2018 clarifying the nature of the use, that no cooking will be undertaken and further details relating to ventilation, sound emissions and disposal of refuse.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to grant planning permission subject to nineteen conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 17th of July 2018 refers to

- Policy context in relation to the Mallow town development plan.
- Planning history.
- Submissions received.
- An assessment of the issues including principle of the development and it is considered that in principle the proposal is acceptable.
- Further information was recommended.

A subsequent report in response to the further information submission as submitted recommended permission.

3.2.2. Other Technical Reports:

Environment report dated the 13th of July 2018 recommends further information on a range of matters. A subsequent report in response to the further information indicates no objections subject to conditions.

The area engineer report dated 16th of July 2018 indicates no objections

Conservation officer report dated the 16th July 2018 indicates no objections.

3.2.3. Other submissions

Irish water in a submission dated the 24th of July 2018 indicate no objection to the proposed development.

A third party submission refers to issues relating to compliance with Part M of the building regulations; inadequate demonstration off parking for staff and delivery of goods and there is an excessive number of eateries in the area.

4.0 Planning History

Planning history relating to the site.

Permission granted for an off licence on the appeal site under P.A. Ref. No.05/55083.

5.0 Policy Context

5.1. Development Plan

5.1.1. Mallow Town Development Plan 2010.

The site is zoned for town centre uses and defined as within the retail core is indicated in figure 7.1 of the plan.

The use as proposed is a permitted use in the zoning.

The site is located within ACA-1 as designated in the plan.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appellant in a submission dated the 10th of September 2018 refers to;

- The number of toilets provided does not comply the requirements as set out under restaurant licence standards.
- The drawings do not indicate the required changing space for staff.
- The drawings do not indicate extract ventilation ducting.
- Bin storage is not demonstrated.
- Reference is made to inconsistencies in the drawings submitted.
- Part M is not complied in relation to the width of the doorway.

- The drawings indicate the rear yard as a service area but does not indicate parking and loading spaces which will give rise to additional parking and traffic flows on the street frontage.
- An additional coffee shop will have detrimental effect on existing coffee shop business located on the same street.

6.2. First Party Response

The applicant in a submission dated the 3rd of October 2018 refers to;

- The proposed development is for a coffee shop and is not a restaurant. The requirements of the Restaurant Licence Regulations do not apply.
- All requirements of the HSE will be adhered to;
- The requirements of the fire officer who has required a reduction in capacity to 38 customers will be adhered to;
- There is no requirement for a staff changing facility given the nature of the business proposed;
- No cooking is proposed on the premises and an external extraction ventilation system is not required;
- Bin storage is provided in the rear yard which was indicated on submitted drawings;
- All requirements of the Building Regulations will be adhered to;
- Loading and delivery for the proposed site will have minimal impact on traffic flows and on site parking is not required.

6.3. Planning Authority Response

The planning authority in a response dated the 27th of September 2018 indicates that the planning authority recommended permission having regard to the proposed development, the objectives of the town plan, potential impacts and submissions from other departments. Building regulations are it is noted a separate code.

7.0 Assessment

7.1. The primary issues raised in the grounds of appeal in relation to the proposed development largely refer to matters addressed under other regulatory codes. Reference is made to the number of similar outlets in the town and issues of parking and refuse storage and collection.

7.2. Principle of the development.

In relation to the principle of the development the site is in the commercial centre of the town on a site zoned for town centre uses and within the retail core is indicated in figure 7.1 of the current statutory development plan. The proposed use is permitted within the zoning. I would have no objection to the use as proposed for the site.

7.3. Design.

The development in relation to external elevational change largely relates to the erection of a shop front timber fascia signage replacing an existing fascia sign and the provision of new external lighting replacing existing external lighting. No other external alterations are proposed to the street elevation.

I would have no objection to the alterations to the elevations proposed.

7.4. As already indicated the main issues raised in the grounds of appeal relate to the requirement to adhere to regulations relating to restaurants and the requirements of Part M of the Building Regulations. These are I consider matters to be addressed under the relevant statutory codes where and if they arise and are not matters to be addressed in this appeal.

7.5. The issue of an additional coffee shop having a detrimental effect on existing coffee shop business located on the same street is a matter of commercial competition are not a matter to be addressed in this appeal.

7.6. I do not consider that traffic issues arise given the nature of the proposed use, its location and the previous permitted use of the site in relation to traffic generation and street parking demand.

7.7. Other matters

Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity 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 a European site.

EIAR Screening Determination

The development does not constitute a class of development for which EIA is required.

8.0 Recommendation

8.1. I recommend that permission be granted

9.0 Reasons and Considerations

9.1. Having regard to the nature of the proposed development; its location within an established town centre area and retail core area, the zoning and stated provision of the current Mallow Town Development Plan 2010 and the planning history of the site, it is considered that subject to it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would be acceptable in terms of traffic safety and convenience and 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 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.

Reason:

2. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and to protect the character of the architectural conservation area.

3. No awnings, canopies, cctv, projecting signs or roller shutters shall be erected or displayed on the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and to protect the character of the architectural conservation area.

Derek Daly
Planning Inspector

30th November 2018