



An
Bord
Pleanála

Inspector's Report ABP 302867-18

Development	Provision of a designated off-licence area (15sq.m) for the display and sale of alcohol for consumption off the premises, within and ancillary to the previously approved convenience store.
Location	Dublin City University, Student Hub Building, Glasnevin Campus. Collins Avenue Extension. Dublin 9.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2922/18.
Applicant(s)	Dublin City University.
Type of Application	Permission.
Planning Authority Decision	To Grant Permission.
Type of Appeal	Third Party.
Appellant(s)	Eddy Glennon
Observer(s)	None.
Date of Site Inspection	January 18 th , 2019
Inspector	Breda Gannon

1.0 Site Location and Description

- 1.1.1. The site is located within the DCU Glasnevin Campus off Collins Avenue. Dublin 9. It is located towards the southern end of the campus which accommodates the student residents and facilities. It forms part of the recently renovated Londis shop within the student HUB building. The shop has a long rectangular footprint and sells convenience and fast food. External access is available from the main campus Mall and internally from within the HUB building. The shop compliments a range of other facilities in the immediate area including a pharmacy, hairdressers, print shop, bank, bookshop, student restaurant and coffee dock.

2.0 Proposed Development

- 2.1. The proposal is for a designated off-licence area (15m²) for the display of alcohol within and ancillary to the previously approved convenience store permitted under Reg Ref No 2507/16.
- 2.2. Further information on the application was requested on 28/6/18 on the following matters;
- Submission of a further audit identifying the number and frequency of all off-licence and part off-licence facilities within a 1km radius of the proposed development.
 - Clarification that the convenience store which is being was licenced for the sale of alcohol.
 - Relocation of the proposed facility to the rear of the premises to comply with section 16.28 of the development plan.

The response of 7/9/18 was to the satisfaction of the planning authority.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission for the development subject to 8 no. conditions. Apart from standard type conditions, the decision includes the following conditions of note;

Condition no 3 – No advertising of the sale of alcohol products on or near the entrance, external façade or windows.

Condition No 4 – Limits the display area for alcohol products to the area of the store detailed as the 'designated off-licence' on drawing Ref. 2400 Rev P-00 submitted with the application.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **Planning Officer's** report of 1/10/18 notes the additional audit carried out in response to further information which states that there are 8 no. off-licences or part off-licences within a 1km radius of the site, together with an additional facility which incorporates wine sales only. Having regard to the findings of the audit, it is not considered that the proposed development would give rise to an overconcentration of this type of facility in the area, particularly where the use forms part of a number of retail/commercial uses which provide residential amenity to students living on campus and where the majority of existing facilities in the area are located in the outer-most section of the 1km radius. The proposal is, therefore, considered to be appropriate in this location.

It has been clarified that the previous convenience store on the site, which is being replaced by the convenience store currently under construction was licenced to sell wine. The applicant has clarified that the off-licence display area is located in a designated and enclosed area which customers do not need to pass in order to access other areas of the store, reflecting the Responsible Retailers of Alcohol in Ireland (RRAI) code of practice for the siting of such facilities.

3.2.2. Other Technical Reports

The **Drainage Division** in their report of 29/5/18 raised no objection to the development subject to standard conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

An observation was submitted on behalf of Mr Eddy Glennon by Ian Smyth Architect, which raised similar issues to those raised in the appeal.

4.0 Planning History

The following planning history is documented in the planning officer's report.

1. **Reg Ref No 2507/16** – Permission granted for an extension to the existing student HUB to provide a new three-storey student facilities building (35552m²), providing a range of facilities.
2. **Reg Ref No 2923/18** – Permission granted for the provision of 3 no. flagpoles to the north of the student HUB building.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the **Dublin City Council Development Plan 2016-2022**. The site is located in an area zoned Z15 – Institutional and Community with an objective *'To protect and provide institutional and community uses'*.

Policy RD 5: Seeks to prohibit the further expansion of off-licences or part off-licences unless a compelling case can be made that there is not an overconcentration of such uses in any one area.

Section 16.28: Development standards for Off-Licence and Part Off-Licence are also relevant to the consideration of the appeal.

6.0 Environmental Impact Assessment - Preliminary Examination

Having regard to the existing development on the site, the nature and scale of the proposed development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

- Mr Glennon of EuroSpar runs his shop and existing off-licence at 129-131 Ballymun Road since 2000. The proposed development is less than 500m from his business and will have a detrimental effect on its operation.
- No case is made to justify the proposal. The Dublin 9 area is oversupplied with off-sales. There are other off licences within 1km of the site which are not shown on applicant's map as required by the development plan.
- The Responsible Retailing of Alcohol (RRAI) Code of Practice and guidance recommends that alcohol areas be located to the rear of shops, which is not the case with the current proposal.
- The Students Union area is beside the convenience store and there is no visual break or permanent door between the two areas. Should the licenced area not include the Students Union area if this is correct. The red line on the plans is incorrect.
- Government policy is to reduce the availability of alcohol and the introduction of the 10pm closing ban for off-licence premises has resulted in a significant reduction in trade. The local market will not support, nor does it need an additional off licence. The proposed development will result in negative impacts on commercial units in the area and increase vacancy levels.
- The proposed floor area of 15m², which is noted to represent 5% of the shop area does not give a true reflection of the potential volume of alcohol sales.

- A university campus is not an appropriate location for an off-licence. There are strong arguments for continuing to deny planning permission for new outlets. *The Health of Irish Students: College Lifestyle and Attitudinal National (CLAN) Survey* highlighted issues with binge drinking. The Union of Student of Ireland in its *Alcohol Strategy* policy document called for regulation of the density of premises to be a factor before the awarding of licence to any new premises and has committed to investigating limiting the quantity of alcohol customers can buy in on-campus licensed premises.
- Any increase in antisocial behaviour resulting from additional licenced premises would have a significant, negative effect on the quality of life for local residents.
- DCU is recognised as an international sports campus. The provision of a new off-licence premises directly adjacent to the sports centre building would appear to run counter to the message the campus otherwise provides with regard to the promotion of active healthy lifestyles.
- DCU provided no information on how it intends to manage the day to day operations of potential lessors who will take over the running of the premises.

7.2. Applicant Response

The First Party response is summarised below.

Basis of the requirement for the designated off-licence facility

- The proposal is seen as an enhancement of existing campus commercial facilities to cater for increased student numbers.
- The DCU Glasnevin campus is a vibrant student focused campus with numerous on-site facilities including a bank, pharmacy, hairdressers, book shop, print store, restaurants, coffee docks etc. These facilities provide residential amenity benefit to the on-campus student housing, which will be expanded going forward.
- The requirement for the facility is noted in both the application and the further information. The growth of the university with the increase in both student numbers and capital investment in academic facilities which has occurred

following the incorporation of DCU, is the framework on which the application is based

Other off-licence facilities in the locality

- In response to further information an updated map was submitted which identifies the number and frequency of off-licence and part off-licence facilities within a 1km radius of the site. Four additional off-licence and part off-licence facilities were identified. The audit has been reviewed again and it is noted that since the submission of additional information Spar Shanowen Road, is temporarily closed for renovations and Centra at 2 St. Pappin's Road is closed following a change in ownership.
- The further information audit also referred to facilities which are outside the 1km radius and those facilities which are immediately adjacent to the 1km radius in the interest of completeness.
- The proposed development is at a distance from existing facilities and should not be considered an overconcentration of similar retail outlets. This position was accepted by the planning officer. The proposal is located internal to the campus for the benefit of the campus population and wider local population of the surrounding area.

Location of the designated off-licence area

- The off-licence and display area is located in a designated and enclosed area which customers do not need to pass in order to obtain access to other products, reflecting the RRAI Code of Practice.
- The rationale for locating the off-licence and display area in the position shown is that the store does not have a traditional back/front relationship to its surroundings.
- The convenience store has both an external entrance (north) to the central campus Mall and an internal entrance (west) through the internal HUB street (Fig 1). The designated off-licence display area has been sited on the basis of this two-point access arrangement. Whilst the ideal situation 'the rear of the shop' could not be accommodated in this instance, the RRAI guidelines with respect to the display of alcohol have been followed.

Separation from the Student Union

- The campus is a pedestrian campus with a number of internal streets which allow pedestrian flows through buildings blocks.
- Campus commercial activities are located off internal streets.
- The Students Union is located off the U building internal street. No direct line of sight between the Student Union and the convenience store exists and details of this are submitted by way of a photographic report appended to the submission.
- The location of the designated off-licence is clearly defined on the plans submitted. The boundary of the convenience store aligns with the fire compartmentation of the building uses which are physically separated by the internal street. The red boundary which is described on all of the plans submitted as part of the planning application aligns with the boundary of the store and the fire compartment dedicated to the retail store.

Retailers approach to alcohol sales

- As part of the application and further information, the retail store manager of Campus Properties DAC provided details of the draft policy upon which alcohol sales will be based (copy attached). This reflects the RRAI Code of Practice and a best practice approach to the sale of alcohol with an emphasis on drink awareness.
- Campus Properties DAC is a company wholly owned by DCU, which allows for an increased level of control and vigilance over the day to day operations of the retail store, over and above that if the store was leased to a commercial operator as suggested by the applicant.

7.3. Planning Authority Response

The proposed development is considered to be appropriate in this instance, where it forms part of a number of retail and commercial uses on the campus, which provides a residential amenity benefit to students living on campus, and where the majority of existing facilities in the area are located in the outer-most section of the 1km radius of the campus.

8.0 Assessment

The main issues that arises for determination by the Board in respect to this appeal relates to the appropriateness or otherwise of the facility in this location.

Considering the provisions of the development plan, off-licence facilities are not specifically listed as 'permitted' or 'open for consideration' uses under the Z15 objective. Section 14.4 of the Plan states *'Uses not listed under the 'permissible' or 'open for consideration' categories will be deemed not to be permissible uses in principle in Zones Z1, Z2, Z8, Z9 Z11 and Z15.* Having regard to the nature of the established community use on the site as a third level college, and the use of the previous store to sell wine, I do not consider that the provision of an off-licence facility would be contrary to the Z15 objective for the area which is *'to protect and provide for institutional and community uses'*.

Under Policy RD 5 and Section 16.28 the overall aim is to ensure that a proliferation of such uses does not occur and also to protect the context, character and retail vitality of city streets. Section 16.28 of the plan sets out a range of criteria to be met in considering applications for off-licence facilities. The criteria are as follows;

1. *The number and frequency of such facilities within a 1km radius of the proposed development.*

In the rebuttal to the appeal the applicant provided updated information on the number of off-licences within a 1km radius of the site. The closest is Eurospar which is operated by the appellant. It is located c.500m from the appeal site and on the opposite side of the Ballymun Road. There are two other facilities close by, which are currently closed and the remainder are located at greater distances (c 800-900m), along the Swords Road and Glasnevin Road. However, I would note that there is a current appeal before the Board (ABP 302911-18) for the change of use of one of the closed stores to include part off-licence facility (18sq.m). This is located at the Shanowen Road and is also c 500m to the north of the site and proximate to Shanowen Hall student accommodation.

Having regard to the location of the facility within the university campus, which will be largely separated from other off-licence facilities by major roads including Ballymun Road, Swords Road and Collins Avenue Extension, I do not consider that the

proposed development would result in an overconcentration of such facilities in the area or that it would conflict with the provisions of Plan.

2. The amenities of properties in nearby residential areas.

Having regard to the ancillary nature of the facility its small scale and its location within the university campus, where the main customers are likely to be students who reside on campus, I do not consider that it will result in any significant impacts on the residential amenities of dwelling in the locality.

3. The floor area used for the display of alcohol products shall be in an unobtrusive position, not near the entrance or windows of the shop and preferably to the rear of the premises.

Having regard to the overall configuration of the shop, with access available from two sides, I accept that there is no 'rear' area where the off-facility could be located. The development would be located off the main shop axis and would not be visible from the main aisles. It would be visible as customers approach the checkout area. Notwithstanding the location of the facility close to one of the entrances, having regard to the relatively secluded location of the facility and the proposal to screen the area, I consider that the proposal is largely compliant with this development plan criteria.

4. The area for the display of alcohol products shall be detailed on the floor plans and the display of alcohol products shall be limited to this area only.

I draw the attention of the Board to the floor plans submitted by the applicant. The area within the convenience store which will accommodate the off-licence facility is clearly indicated. I note that beer and wine will be displayed in this area and that an area for the display of spirits will be contained behind the cashier, as is normal practice in this type of store.

5. The area for the display of alcohol products should be secure and monitored.

The off-licence is positioned close to the checkout area where it can be conveniently monitored.

Having regard to the foregoing, I consider that the proposal satisfies the criteria of the development plan for off-licence and part off-licence facilities and will not result in an overconcentration of facilities in the area.

The Board will note that appellant's main concern relates to the impact of the facility on his business and while these are genuine concerns, issues regarding retail competition are not regulated by the planning system. Other matters raised regarding anti-social behaviour associated with consumption of alcohol are outside are matters which are outside the scope of this appeal

9.0 Conclusion

- While an off-licence is not deemed to be a permissible use in principle in Z15 zoned areas, it compliments a range of facilities provided with the university campus and is not considered to prejudice the objective for the area which is 'to protect and provide institutional and community uses'.
- Having regard to its location within the university campus, it is not considered that the proposed off-licence it will result in an overconcentration of facilities in the area, contrary to Policy RD5 of the development plan.
- The proposal will be small scale and will form an ancillary element to the existing convenience store. It is considered that it satisfies the development criteria set out in the plan.

10.0 Appropriate Assessment

Having regard to the location of the development within a serviced built up area, the nature of the development and the separation distance from Natura 2000 sites, I consider that the proposed development either alone, or, in combination with other plans or projects, would not be likely to have significant effects on a European site, in view of the sites' conservation objectives and that, therefore, a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not required.

11.0 Recommendation

11.1. Having considered the contents of the planning application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal and the responses thereto, my inspection of the site and my assessment of the planning issues, I recommend that permission be granted for the development for the reasons and considerations set out below.

12.0 Reasons and Considerations

Having regard to the location of the development within the university campus, the use of the previous convenience store for the sale of wine, and the ancillary nature and small scale of the proposal, it is considered that the proposed development would not result in an overconcentration of off-licence/part off-licenses facilities in the area, would not be contrary to the provisions of the development plan and would, therefore, in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars lodged with the planning authority on the 7th day of September, 2018 or 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 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 interests of clarity.

2. The display area for alcohol products shall be limited to the area of the store outlined as 'designated off-licence' on Drawing Ref 2400 Rev P-00 submitted to the planning authority on the 7th day of September, 2018.

Reason: In the interests of clarity.

3. No advertising of the sale of alcohol products shall be displayed on the external façade or windows or on, or, near the main entrance.

Reason: To ensure a satisfactory standard of development.

Breda Gannon
Senior Planning Inspector

30th, January, 2019