



An
Bord
Pleanála

Inspector's Report ABP-305144-19

Development	The placement of street furniture outside of restaurant.
Location	11-12 Duke Street, Dublin 2
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	SF/351
Applicant(s)	Carluccios's Restaurant
Type of Application	Street furniture license
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Pat Coyne
Date of Site Inspection	06 th October 2019
Inspector	Colin McBride

1.0 **Site Location and Description**

1.1. The appeal site is located at the corner of Duke Street and Dawson Street to the south of Dublin City Centre.

2.0 **Proposed Development**

2.1. The licence is for the placement of 12 tables and 24 chairs in an area of 16.2sqm along the Duke Street frontage of the restaurant. Canvas windbreakers with metal uprights will screen the tables and chairs.

3.0 **Planning Authority Decision**

3.1. **Decision**

3.1.1 Permission granted subject to two conditions.

Condition 1: Screening to be plain coloured or neutral canvas type no more than 1m in height, no advertising apart from restaurant name.

Condition no. 2: The street furniture is to be stored indoors during times furniture not permitted on the street, 22.00hrs to 07.00hrs.

4.0 **Planning Authority Reports**

4.1 Planning reports (12/05/08): The proposal was granted on the basis that the area was not considered to be a high traffic area (pedestrian and vehicular) despite concerns regarding the width remaining particularly in regard to disability access. A grant of permission was recommended based on the conditions outlined above.

4.2 External reports

Dublin Fire Brigade (22/02/08): No objection.

5.0 Policy Context

5.1. Development Plan

The relevant plan is the Dublin City Development Plan 2016-2022. The site is zoned Z5 with a stated objective “to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity”.

Section 16.30 Street Furniture

Certain uses in the public realm, including elements of street furniture, can lead to problems of visual clutter and to obstruction of public footpaths for pedestrians, in particular people with disabilities. These elements include newspaper stands, telephone kiosks, traffic and bus signs, tables and chairs, taxi and bus shelters as well as unauthorised A-frames and spinner stands erected by retailers. It is an objective of Dublin City Council to control the location and quality of these structures in the interests of creating a high-quality public domain.

All outdoor furniture provided by private operators including retailers, publicans and restaurateurs, etc., and utility companies should be to the highest quality, preferably of good contemporary design avoiding poor historic imitation and respect the overall character of the area and quality of the public realm and be so located to prevent any obstruction or clutter of all footpaths and paved areas including landings.

In this regard, street furniture requires either a licence under Section 254 of the Planning and Development Act, 2000 (as amended) or planning permission (including street furniture erected on private lands). In both instances, the applicant is required to submit details of the location, design, specification and quality of the proposed elements of street furniture. Details of maintenance and cleansing schedules, together with a certificate of structural stability, may also be required. In considering applications for outdoor tables and chairs, the planning authority shall have regard to the following:

- Size and location of the facility

- Concentration of existing street furniture in the area
- The visual impact of the structure, particularly in relation to the colour, nature and extent of advertising on all ancillary screens
- Impact on the character of the streetscape
- The effects on the amenities of adjoining premises, particularly in relation to hours of operation, noise and general disturbance
- Impact on access and visibility.

5.2 Design Manual for Urban Roads and Streets

Section 4.3.1 Footways, Verges and Strips (attached).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by Pat Coyne, 7 Arran Street East, Mary's Abbey, Dublin 7. The grounds of appeal are as follows...

- The installation of bicycle parking stands on the pavement has reduced footpath width causing inconvenience to pedestrians and meaning a license for outside seating should not be granted.
- The area is of moderate to high pedestrian activity and the licence issued is subject to the provision of a minimum footpath clearance of 1.8m. The installation of the bike stands reduces width to 600mm. A minimum width of 1.8m is no longer available and permission should be refused for renewal of the license for outside seating.

6.2. Applicant Response

6.2.1 Response by Eversheds Sutherland on behalf of the applicant, Carluccio's restaurant.

- The applicant has had a licence for outdoor seating continually renewed since first sought in 2008. The area subject to the licence is important in terms of capacity and revenue for the existing restaurant.
- The bicycle stands were installed around April 2018. They do not impact on the entire area of seating and a significant portion of such is unaffected by the stands. The City Council has confirmed to the applicant that the standards will be removed by the end of October 2019.
- The terms of the licence is that furniture is not placed beyond 0.9m from the frontage of the building. It is noted that the measurement of width should be from the inside edge of the stands and not the bicycles locked to them. The applicants note that the appellant's measurement of 600mm is incorrect and that the width of the footpath as a result of installation of the bicycle stands is 0.93m
- It is noted that the applicants intend to install reduced size replacement furniture to be in place for a temporary period until the bicycle stands are removed.

6.3. Planning Authority Response

6.3.1 Response by Dublin City Council.

- It is noted that the licence should be renewed.

6.4 Further Response

6.4.1 Response by the appellant Pat Coyne.

- It is noted that the applicant has reduced the size of the tables and chairs and removed the planters and screens since the appeal was lodged. The appellant notes that subject licence issued is invalid and an explanation is required on why the licence was renewed.

7.0 Assessment

- 7.1. The proposal is for a licence for placement of 12 tables and 24 chairs in an area of 16.2sqm along the Duke Street frontage of the restaurant. Canvas windbreakers with metal uprights will screen the tables and chairs. The licence was granted and outdoor seating has been permitted by licence since 2008. The appeal is on the basis that the proposed seating taken in conjunction with the bicycle racks installed reduced the width of useable footpath to well below the 1.8m width on which the grant for a licence is based. The existing footpath is just above 3.3m wide and the proposed seating area projects 0.9m from the facade of restaurant along Duke Street. There is a line of existing bollards whose inside edge are 0.4m from the edge of the footpath. This leaves a width of approximately 2m between the inside edge of the bollards and the proposed windbreakers that define the seating area. In recent times a line of Sheffield style bicycle stands have been installed inside the line of the bollards and account for approximately 50% of the length of the facade along Duke Street. These bicycle stand further reduce the width of useable footpath and when bicycles are attached to them reduce the useable width of the footpath significantly.
- 7.2. The applicants have noted that the bicycle standards are to be removed by the end of October and such was indicated by Dublin City Council. The applicants also note that they are intending to install furniture of smaller dimensions and that such is to be carried out by the end of September. At the time of the site inspection, the bicycles stands are still in place and the street furniture in place does not include the canvas windbreakers that are part of the licence application. There is no mention of the bicycle stands being removed in the Planning Authority documents associated with the file (reports appear to be dated 2008 when the first licence was granted) and the Planning Authority has not submitted a response.
- 7.3. Development Plan policy under Section 16.30 of the Dublin City Development regarding Street Furniture notes that such should “be so located to prevent any obstruction or clutter of all footpaths and paved areas including landings”. I would note that the Design Manual for Urban Street and Roads includes recommended standards for footpath widths depending on location and level of activity (attached).

These standards range from 1.8m wide for areas of low pedestrian traffic, 2.5m wide for areas of low to moderate pedestrian activity, 3m for areas of moderate to high pedestrian activity and 4 m wide for areas of high pedestrian activity. I would consider that the existing situation with the street furniture taken in conjunction with the bicycle stands is unacceptable and provides a significantly reduced width in a high pedestrian trafficked area. I would consider that even if 1.8m -2m was available as may be the case without the bicycle stands that such is insufficient having regard to the fact that this location is high traffic area in relation to pedestrian activity. I would consider that the provision of tables, chairs and windbreakers on the footpath area along Duke Street would be an obstruction or clutter of a footpath with insufficient width to cater for such without impact on pedestrian movements as well as being severely constrained in regards to pedestrians with impaired mobility. I would consider that the proposal would be contrary to Development plan policy and the recommendations of the Design manual for Urban Roads and Streets. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

8.0 Recommendation

8.1. I recommend refusal based on the following reason.

9.0 Reasons and Considerations

1. The proposed tables, chairs and windbreakers would be located within the existing pedestrian footpath and reduce the effective width of the pedestrian footpath so as to constitute an obstruction or clutter of a footpath with insufficient width to cater for such without impact on pedestrian movements as well as being severely constrained in regards to pedestrians with impaired mobility. The proposed placing of street furniture at this location would, therefore, be contrary to the provisions of the Dublin City Development Plan 2016-2022 concerning such development and the recommendations of the Design Manual for Urban Roads and Streets. The proposed placing of street furniture on the public footpath would, therefore, be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

06th November 2019