



An
Bord
Pleanála

Inspector's Report ABP-305567-19

Development	Change of use of retail unit to a café with delicatessen, external terrace and footpath, demolish front façade and set back building line, with new shopfront and signage.
Location	The Workshop, Old Blackrock Road, Cork City.
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	18/38061
Applicant	Jim O Sullivan
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v. Grant
Appellant(s)	Carmel Buckley
Observer(s)	None
Date of Site Inspection	18 th December 2019
Inspector	Fergal O'Bric

1.0 Site Location and Description

- 1.1. The appeal site comprises a triangular shaped retail unit which fronts onto the Old Blackrock Road, south-east of the city centre. The appeal site has a stated area of 260 square metres (sq. m.) and comprises a single storey flat-roofed building with a gross floor area of 215 square metres (sq. m.).
- 1.2. The site is bound to the north by the Old Blackrock Road, on the opposite side of which is the South Infirmity Victoria University Hospital. To the south are residential dwellings within the Elm Park development. To the east is an overbridge over the South City Link Road (N27). To the west the site is bounded by an access road to the neighbouring residential properties. There are double yellow lines, prohibiting car parking, along the street frontage of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - a. The change of use from retail to a café with delicatessen;
 - b. Establish new footpath and external terrace;
 - c. Demolish front façade and set back building line;
 - d. Signage and ancillary works.
- 2.2. Further information was requested by the Planning Authority regarding a number of issues. The issues related to (1) including the full extent of the proposed footpath along the street frontage within their red line application site boundary; (2) clarification as to who will carry out the proposed footpath construction works; (3) that the applicant demonstrate he has sufficient legal interest to carry out the footpath works or submit the necessary written consent; (4) Provide design details of the footpath, including dishing and tactile paving at the eastern end; (5) Details of relocation of electricity and light standard services; (6) Details of refuse collection and deliveries; (7) Confirmation of staff numbers and numbers of patrons the café

can provide for; (8) Details of proposed opening hours; (9) Details of grease traps/interceptors.

2.3. Further information submitted included the extension of the red line application site boundary to include the footpath area and other details as requested.

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission was granted subject to 12 no. conditions. The relevant conditions are noted below:

Condition 1 Clarified that permission was granted for the development submitted by way of further information.

Conditions 8, 9 and 11 relate to construction noise and construction/demolition working hours; Keeping the area free from dirt/litter during construction; Management of dust, noise, odour, surface water run-off and fuel spillages during construction.

Condition 10 relates to noise control during the operation of the café/delicatessen.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The Planning Officer's report recommended that permission be granted subject to conditions.

3.2.2. **Other Technical Reports**

- Road Design: No objection, subject to conditions.
- Drainage Report: No objection, subject to conditions.

- Environment Report: No objection, subject to conditions.

3.3. Prescribed Bodies

- Health and Safety Authority: No objection.

3.4. Third Party Observations

There were five third party submissions noted on file all from residents within neighbouring properties. The concerns raised relate to:

- The number of eateries within the immediate area;
- No specific car parking proposals have been received to serve the proposed café and illegal car parking will be exacerbated with the opening of the proposed development. A number of accidents have occurred as a result of illegal car parking at this location;
- Proposed bin storage area is inadequate to cater for the proposed development;
- Planning permission was not sought to change the use from a workshop to a furniture store;
- Proposed development will increase disturbance and affect safety of residents;
- Proposed development will increase the level of pollution in the area;
- Proposed footpath is welcomed but would encroach on third party lands;
- Odours from cooking will adversely affect the local residents;

- Concerns that noise generated by the development both during the construction phase and the day to day operation of the café would have a negative impact on the neighbouring residents;

4.0 **Planning History**

Subject Site

Planning Authority reference 12/35368, ABP reference PL. 28.241254. Permission was granted in 2013 for a change of use of the furniture shop to a café with delicatessen, new footpath and external terrace, setting back front building line, signage and ancillary works.

5.0 **Policy and Context**

5.1. **Cork City Development Plan, 2015-2021**

5.1.1. The appeal site is located in an area zoned Z04 Residential, Local services and Institutional Uses. The proposed café use is acceptable in principle under this zoning objective once the use would not unduly impact upon neighbouring residential amenities.

5.1.2. Section 16.103-provides guidance on shopfront signage.

5.2. ***National Guidance***

- Retail Planning Guidelines, 2012

5.3. **Natural Heritage Designations**

None Relevant.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was submitted from a neighbouring resident. The concerns raised in the appeal are largely the same issues relayed in the submission made to the City Council during the course of the planning application and largely relate to traffic and parking impacts and impacts upon the residential amenities of neighbouring properties.

6.2. Planning Authority Response

The Planning Authority stated that it had no further comments to make.

7.0 Assessment

- 7.1. A concern was raised in relation to the number of existing operating food businesses in the area. Section 2.5.3 of the Retail Planning Guidelines, 2012 outlines the following in this regard: The planning system should not be used to inhibit competition, preserve existing commercial interests or prevent innovation. Therefore, the issue of oversupply of cafes / food outlets will not be given consideration in the assessment.
- 7.2. A similar type development was permitted on site in 2013. The appeal site is located within an area which is primarily residential, although some compatible non-residential uses, in the form of a mini-market located approximately 70 metres further west of the appeal site along the Old Blackrock Road, and the hospital, are located proximate to the appeal site. Therefore, the proposed change of use from retail to a café use with a delicatessen, is considered compatible with the character of the area and with the zoning objective.
- 7.3. The main planning issues in this appeal relate to a lack of car parking provision, that the proposals will result in the creation of a traffic hazard and potentially adversely impacting upon local residential amenities. Appropriate Assessment requirements

are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Parking and Traffic.
- Impact upon Residential amenities.
- Appropriate Assessment.

7.4. ***Parking and Traffic***

- 7.4.1. Concerns have been raised regarding the lack of dedicated car parking associated with the development and would result in the creation of a traffic hazard.
- 7.4.2. Currently the retail unit is operating and has been since at least 2012 (as per the information provided within the previous planning appeal on site) as a retail unit, selling furniture. No dedicated on-site car parking is provided with the current use. The current proposals will similarly provide for no dedicated on-site parking. However, on-street parking is available along the Old Blackrock Road and there is a public car park at Thomond Square which is located approximately 150 metres west of the appeal site. There are a significant number of residential properties in the area as well as the hospital and residents/patrons from these could walk to the proposed café to avail of their food services. The appeal site is located approximately 500 metres south-west of City Hall/South Mall area which are both located within the city centre. Within the Development Plan the current site is identified as being within the central suburbs, however the opposite side of the Old Blackrock Road is identified as being city centre. Therefore the current site is considered one where a café use would be appropriate.
- 7.4.3. Concerns were expressed regarding illegal car parking along the street frontage of the café. The new footpath proposed along the street frontage of the café should reduce the opportunity to engage in this practice and will also improve the visibility for residents egressing from the Elm Park, Carrig View Terrace and Rosehill residential developments to the south of the appeal site.

- 7.4.4. It is further considered that the construction of a footpath along the café street frontage will improve safety for pedestrians and reduce their need to cross the Old Blackrock Road or walk on the roadway as happens at present. It is acknowledged that the footpath width would reduce from 2.4 metres to 1.2 metres at the eastern end of the appeal site street frontage, due to third party land ownership issues. However, it is recognised that the provision of the footpath would be beneficial to local residents and patrons of the café alike.
- 7.4.5. Concerns were also raised regarding the potential for conflict between vehicular and pedestrian movements at the junction of Carrig View Terrace and the Old Blackrock Road. The appeal site is located within an existing urban area where the 50km/h speed limit applies, with existing/proposed footpaths linking the appeal site to the city centre and surrounding residential developments. Having regard to the nature and scale of the proposed development, I am satisfied that the proposed development would make the local pedestrian and traffic environment safer, by virtue of the proposed setting back of the existing building line, would not endanger public safety by reason of a traffic hazard, nor exacerbate any road safety issues. I note the comments of the Road Design Section of Cork City Council in this regard.

7.5. ***Residential Amenity***

- 7.5.1. Concerns have been raised that the residential amenities of the neighbouring residents would be unduly impacted upon, especially during the construction phase, with the construction traffic and additional noise, dust and vibration associated with construction activities. It is acknowledged that there would be some short-term disruption caused by the proposed development works, if permitted. However, these would be temporary in nature and a Construction Environmental and Management Plan (CEMP) could be agreed in writing with the Planning Authority in advance of works commencing, whereby these issues could be addressed and disruption minimised during construction. The planning gain associated with the construction of the footpath must be considered as a counter-balance to the temporary disruption that would be caused by construction activities.

7.5.2. Concerns have also been expressed regarding the impact of the proposed development once operational as a café and delicatessen. Noise, odours from cooking, grease traps/interceptors have specifically been mentioned as concerns. The Environment Section of Cork City Council did not raise any concerns in this regard. The issue of noise from the premises when operational has been addressed by Cork City Council within its planning conditions. The issue of grease traps and air extraction was addressed by the applicant within their further information response.

7.5.3. I have reviewed all the submitted documentation and I am satisfied that the proposed change of use development would not unduly impact upon the residential amenities of neighbouring persons.

7.6. ***Appropriate Assessment.***

Having regard to the nature and small scale of the proposed development within a serviced urban area and the distance from 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.

8.0 **Recommendation**

8.1. It is recommended that permission be granted subject to conditions.

9.0 **Reasons and Considerations**

Having regard to the zoning objective of the subject site, the pattern of development in the area and the modest scale of the proposed development, the planning history on the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the residential amenities of the area and would be acceptable in terms of traffic safety. The proposed development 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 and as amended by the further plans and particulars submitted on the 14th day of August 2019 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.

2. The noise levels generated during the operation of the development shall not exceed 50 dB(A) Leq,1hr] when measured at the nearest occupied house. When measuring the specific noise, the time shall be any one hour period during which the sound emission from the development is at its maximum level.

Reason: In order to protect the residential amenities of property in the vicinity.

3. The proposed shopfront shall be in accordance with the following requirements:-
 - (a) Signs shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering,
 - (b) lighting shall be by means of concealed neon tubing or by rear illumination,
 - (c) no awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,
 - (d) external roller shutter shall not be erected. Any internal shutter shall be only of the perforated type, coloured to match the shopfront colour.

(e) no adhesive material shall be affixed to the windows or the shopfront.

Reason: In the interest of visual amenity.

- 4 The developer shall control odour emissions from the premises in accordance with measures which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

- 5 Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

- 6 The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

- 7 Prior to the commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

- 8 Gates/doors shall be recessed and shall open inwards only. No obstruction of the public footpath shall occur.

Reason: In the interest of pedestrian safety.

- 9 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Fergal O'Bric
Planning Inspector

16th January 2019