



An
Bord
Pleanála

Inspector's Report R307579-20

Development

Permission for the change of use of the existing ground floor unit into two separate units consisting of a retail unit and a retail/professional services/café restaurant use.

Location

Corner of Belmayne Avenue and Main Street, Belmayne, Dublin 13.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

2390/20.

Applicant

Green Label Property Investment Limited

Type of Application

Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party -v- Refusal.

Appellant

Green Label Property Investment Limited

Observer(s)

None.

Date of Site Inspection

24th August, 2020.

Inspector

Paul Caprani.

Contents

1.0 Introduction.....	3
2.0 Site Location and Description	3
3.0 Proposed Development	3
4.0 Planning Authority’s Decision	4
4.1. Decision	4
4.2. Internal Reports.....	4
4.3. Planning Report	4
5.0 Planning History.....	5
6.0 Grounds of Appeal.....	6
7.0 Appeal Responses.....	8
8.0 Development Plan Provision.....	8
9.0 EIA Screening Determination.....	10
10.0 Assessment.....	11
11.0 Appropriate Assessment	13
12.0 Decision	13
13.0 Reasons and Considerations	14

1.0 Introduction

ABP307579-20 relates to a first party appeal against the decision of Dublin City Council to refuse planning permission for the change of use of an existing ground floor library to two separate units consisting of one unit retail use and one unit for retail/professional services or café/restaurant use at ground floor level of an existing building at the corner of Belmayne Avenue at Main Street, Dublin 13.

2.0 Site Location and Description

2.1. The appeal site is located in the new settlement of Belmayne near the northern administrative boundary between Dublin City Council and Fingal County Council. The site is located in what is generally referred to as the North Fringe of Dublin City where large areas of land are currently being developed or have recently been developed between the Malahide Road and the Baldoyle Road, north of Donaghmede. The subject site is located on the corner of Main Street, Belmayne and Belmayne Avenue. The corner site accommodates a five and six storey building which fronts onto both Main Street and Belmayne Avenue. The upper floors of the building accommodate residential development while the ground floor of the building is currently unoccupied but comprises of a large open plan area which, according to the information contained on file, has been designated for communal library use. Adjoining buildings both on Main Street and Belmayne Avenue accommodate commercial use at ground floor level mainly comprising of fast food takeaways, small convenience stores and hair and nail salons with residential development overhead. Lands on the northern side of Belmayne Avenue are currently undeveloped and at pre- construction stage.

3.0 Proposed Development

3.1. Planning permission is sought for a change of use in the eastern portion of the ground floor of the building. It is proposed to change 234 square metres of the ground floor from library space to a retail unit which is accessed from Belmayne Avenue but has over 20 metres of street frontage onto Main Street, Belmayne. In the

central portion of the ground floor fronting onto Belmayne Avenue a change of use is also sought for 148 square metres from existing library to retail/professional services or as a café/restaurant. Entrance to this unit will be via Belmayne Avenue only.

4.0 **Planning Authority's Decision**

4.1. **Decision**

- 4.1.1. Dublin City Council issued notification to refuse planning permission for a single reason which is set out in full below.

1. The loss of the remaining floor area of the library from the landmark corner building would result in the loss of a potential community use and at a strategic location within the Belmayne/Clongriffin LAP area which has been designated as a community hub, and as such would therefore be contrary to the Dublin City Development Plan 2016 – 2022, the Clongriffin/Belmayne Local Area Plan 2012 – 2018 and the proper planning and sustainable development of the area.

4.2. **Internal Reports**

- 4.2.1. A report from Engineering Department – Drainage Division stated that there is no objection to this development subject to the development complying with the Greater Dublin Region Code of Practice for Drainage Works.

4.3. **Planning Report**

- 4.3.1. The planner's report sets out details of the planning history and the planning policy relating to the development. It is noted that previous grants of planning permission (see separate heading below) have reduced the area of the originally approved library and the proposed development if permitted, would result in the loss of the last remaining section of the area earmarked for a library. No rationale or justification for the removal of this community use has been provided as part of the application. While it is acknowledged that the library may not be ultimately be developed at this particular location within the LAP area, it was recently recommended that the residual 371 square metres of library space would be retained as a community use at this

strategic location which would be consistent with the requirements of the LAP. To permit the total removal of this community use would undermine the strategic approach to the development of the Belmayne/Clongriffin area and therefore a refusal of planning permission is warranted in this instance.

- 4.3.2. On this basis Dublin City Council refused planning permission for the proposed change of use on 18th June, 2020 for the single reason set out above.

5.0 Planning History

- 5.1. Details of a number of planning applications are contained in a pouch to the rear of the file. These are summarised below:
- 5.2. Under PL29N.207192 An Bord Pleanála upheld the decision of Dublin City Council and granted planning permission for the construction of 2,180 dwellings and 10,029 square metres of retail, commercial and community uses on the north fringe site bounded by the Malahide Road to the west, Grange Road to the south, the Hole in the Wall Road to the east and the Mayne River to the north. The Board granted planning permission subject to 52 conditions on 17th November, 2004.
- 5.3. Under Reg. Ref. 3891/19 Dublin City Council issued a split decision with permission granted for a change of use part of the library unit to accommodate retail unit no. 3 while permission was refused for a change of use of part of the library unit to accommodate retail units nos. 1 and 2.
- 5.4. Under Reg. Ref. 3358/19 planning permission was granted for the part change of use of the existing library commercial use to part residential use comprising of 4 one-bedroomed apartment and one two-bedroomed apartment at first floor level.
Permission was granted on 20th August, 2019.
- 5.5. Under Reg. Ref. 2237/20 Dublin City Council sought further information for the part change of use from an existing library to part residential use comprising of 3 one-bedroomed apartments and 2 two-bedroomed apartments at the ground floor of the subject site. These units are to be located to the immediate west of the units proposed under the current application.

6.0 Grounds of Appeal

- 6.1. A first party appeal was lodged by Ian Doyle, Planning Consultant on behalf of the applicants. The grounds of appeal note the planning history associated with the site and the requirement under condition no. 4 of the parent permission (PL29N.207192) that requires the provision of a library for the minimum floor area of 1,000 square metres in the town centre area. It also notes that under Reg. Ref. 3891/19 Dublin City Council issued a split decision with permission granted for a change of use part of the library unit to accommodate retail unit no. 3 while permission was refused for a change of use of part of the library unit to accommodate retail units nos. 1 and 2.
- 6.2. The grounds of appeal note that the site is governed by the zoning objective Z14 where retail, office and restaurant use are permitted in principle. The proposal therefore is fully in compliance with the zoning provisions for the site. The grounds of appeal go on to set out various policy statements contained in the Clongriffin/Belmayne Local Area Plan in relation to community and social infrastructure.
- 6.3. The grounds of appeal note that due to the downturn of the economy, the full extent of the vision for Belmayne is never realised. Thus, the area suffers from high vacancy rates particularly at street level. The lack of development with the lack of footfall along the street frontage has resulted in poor natural surveillance with high vacancy rates which creates an unsafe and uninviting environment. It is noted that the original plan sought to create a community square which the subject site formed a key component for its use as a library. This community square was not realised beyond that of the subject development. While condition 5(e) of the governing permission required the provision of a library of 1,000 square metres, in the absence of achieving the required critical mass in population terms, a library in this location is not viable and this has been recognised by both the LAP and planning decisions relating to the conversion of the first floor of the library to apartments.
- 6.4. As part of previous applications, the applicant has commissioned a community audit which clearly indicates that there is little demand for additional community uses within 1 kilometre of the site. Despite this, the Planning Authority continue to insist that the corner be reserved for a community use. It is suggested that the justification for community use is unfounded, unsubstantiated and lacking in clear policy

justification. It is stated that the proposed development does not contravene the Clongriffin/Belmayne Local Area Plan. A library in this location is not viable as there is not the sufficient population required to support it. It is considered far more appropriate that the subject site be occupied with an active street frontage contributing to natural surveillance.

- 6.5. With regard to the loss of community use at this location, the Council have stated categorically that they have no use for a community facility. No community groups have come forward to express an interest in the unit despite having advertised for such uses since the applicant acquired the premises in 2017. Furthermore, the LAP does not specifically identify the subject unit for community use nor is there a clear justification for such a use.
- 6.6. In terms of good urban design practice, a viable use with an active street frontage should take precedent over an empty unit preserved for a community use which has not been justified with a rational planning argument.
- 6.7. Reference is made in the LAP that a community hub should remain an element in future applications however it is noted that this statement is not specific to the subject site and currently there is no community hub and one is not viable in the context of the existing population of the area.
- 6.8. It is therefore argued that there is no policy context requiring the retention of community use at this location. There is no justification for community facilities at this location of the scale provided for. There is no demand or need for a community facility at this location and best practice encourages multi-functional community facilities of a larger scale. The LAP recommends that a multi-functional community facility formed part of future planning applications in the area. However, this is not specific to the subject site. The fact that the site is visually prominent is not justification for its use as a community facility. It is also stated that the applicant has retailers interested in taking the unit and therefore a more flexible approach is required.
- 6.9. If and when a library and/community hub becomes viable for this area and the Council wish to consider such a development at this location, the applicants will be happy to enter into discussions to render property to the Council and to revert back to a single unit for this purpose. Until then An Bord Pleanála is requested to consider

a more flexible approach towards achieving some form of development that will result in active street frontage at this location. The applicants are therefore prepared to accept a temporary permission preferably for a period of 10 years or more to facilitate a review of the viability of a community use in the context of a future population increase. A refusal in this instance will render the unit in limbo and unlettable.

- 6.10. Correspondence is attached to the grounds of appeal in relation to the letting and subletting of the premises in question.

7.0 Appeal Responses

- 7.1. Dublin City Council have not submitted a response to the grounds of appeal.

8.0 Development Plan Provision

- 8.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016 – 2022 and the Clongriffin/Belmayne Local Area Plan 2012 – 2018 (extended to 2022).
- 8.2. The site is located in a strategic development and generation area SDRA1 and as such, is governed by the Z14 zoning objective which seeks to provide for the social economic and physical development and/or rejuvenation of an area with mixed use, of which residential and “Z6” would be the predominant uses. The development plan notes that the North Fringe Action Area Plan was first produced in 2000 setting out the objective to extend the metropolitan core and create a new dynamic mixed use urban quarter. With a strong urban design framework in place which has already been achieved including the development of over 3,400 new homes and 41,000 square metres of commercial floorspace. While the original plan was intended to be a long-term plan for the area, the slow down of the construction sector from 2008 meant that many key sites remained undeveloped. A statutory local area plan was subsequently produced for the area and adopted by the City Council in December 2012. It sets out a detailed framework and phasing mechanism for the development of the remaining key sites with the aim of providing approximately 8,000 new homes upon completion.

- 8.3. The local area plan is based on the following key objectives/guiding principles.
1. To create a high sustainable, mixed use urban district based around high quality public transport nodes with a strong sense of place.
 2. Achieve sufficient density of development to sustain efficient public transport networks and a viable mix of uses and community facilities.
 3. Establish a coherent urban structure based on urban design principles, as a focus for a new community and its integration with established community.

8.4. **The Clongriffin/Belmayne Local Area Plan**

This Plan was developed in 2012 and has been extended beyond its expiry date to 2022.

Chapter 11 of the Plan relates to community facilities. Specifically, in relation to the provision of a library the plan states that library facilities seek to provide equal and accessible services, information, ideas, resources and programmes to local communities and neighbourhoods. The provision of a library and its future success hinge on the appropriate population capacity for the area. Dublin City library service will consider for a population of c.30,000 persons a building accommodating a library would have a spatial requirement for c.920 square metres.

The original planning permission for the Belmayne area provided for a number of key community services and facilities centred on a square that would ultimately create a community hub for social infrastructure. The creation of the community square sought to accommodate a primary school site, a community centre, an enterprise centre and library etc. The proposed community hub has not yet been completed owing to the slowdown in the property market and both private and public financial constraints. The LAP would recommend however that the original vision for the community hub should remain an element of any future planning applications in the area. It should be located centrally along the Main Street route close to the proposed location for the future primary schools, accessible via the proposed green route and close to neighbouring residential communities. The provision of an adequate community centre and library facility can meet a wide variety of needs of a community and as such should be either located within a multi-functional space or within close proximity to the community hub in order to promote sustainability.

The provision and successful operation of a library is linked to a local population capacity of the area. The current population would not be considered at a level that would yet sustain a fully operational library. It is noted above that there are financial limitations on the city library division to acquire, manage and operate such a new library facility. Taking into account the close proximity of Donaghmede Library, the importance of promoting better use and connections to community assets that exist in the wider locality and the provision of a Dublin City Council operated mobile library the area would be considered well served in the short term for library facilities.

The mobile library service in particular will have flexibility to service new locations of community activity as they develop such as the location of permanent primary schools.

In the long-term, the land exists to integrate permanent community facilities and a library facility close to the originally planned community square. Criteria for considering a suitable site will include the location that has good visual prominence to promote the service, is well connected to the residential catchment and successfully integrated with other community and mixed uses close by. Locations within both private lands and Dublin City Council lands provide options and will be considered as part of the preparation of the next five-year plan for library services in Dublin City Council by the Library Services Department.

Objective CS04 seeks to assess the feasibility of providing a Dublin City Council library facility to serve the future population within the LAP area, this will include a feasibility study within the next five-year city library strategy and consider optimum locations that co-locate such a facility with other community uses.

9.0 EIA Screening Determination

The proposed change of use from designated library space to retail space/commercial services/restaurant is not a class of development for which EIAR is required.

10.0 Assessment

- 10.1. I have read the entire contents of the file, visited the subject site and its surroundings and have particular regard to the Planning Authority's single reason for refusal and the grounds of appeal rebutting this reason.
- 10.2. The planning history associated with the site is in my view an important component in assessing whether or not the change of use should take place. Dublin City Council granted planning permission for a large residential mixed-use development in the context of a framework plan which involved the provision of over 2,000 dwellings and 10,000 square metres of retail, commercial and community uses. The Board in granting planning permission specified under condition no. 4 (and not condition no. 5 as indicated in the grounds of appeal) the provision of two community centres with a minimum floor area of 159 square metres, an enterprise centre, a primary school, a health centre and a library. The Board therefore was seeking to ensure that adequate provision would be made for community facilities within the development. Since this parent permission a number of applications were submitted to Dublin City Council where permission was granted for a part change of use from the library to residential units under Reg. Ref. 3169/19 and 3358/19.
- 10.3. A further application under Reg. Ref. 3891/19 was the subject of a split decision where planning permission was granted for part of the library unit to accommodate a retail unit and planning permission was refused for the change of use of part of the library unit to accommodate additional retail units on the basis that the change of use at this key street corner would result in the loss of an important community resource with consequences for both the visual and residential amenities of the area. It is clear therefore from this decision and Dublin City Council's decision in the case of the current application, that there are serious concerns regarding the outright loss of a community use from the area.
- 10.4. While the applicant argues that there are no specific policies relating to the subject lands to be used for community or library uses, it is clear and unambiguous that library use was intended for the subject site and there are numerous policy statements in the local area plan regarding the need to provide adequate community services to serve this ever expanding and developing urban quarter. It is my view that as the Belmayne area continues to develop there will be a pressing and wide

need for a range of community uses and facilities into the future. There is also a risk that in developing buildings and floor area that are earmarked for community uses for other uses such as retail that it may be increasingly difficult to provide these community uses within the overall urban quarter going forward. And while I accept that the ground floor of the subject building may not necessarily be used as a library, in this instance, it could be used as a community centre/community hub/health facility/social service facility etc. going forward. It was a clear prerequisite in the parent permission that the need for such a facility was identified and planned for in the phasing of the development. Incremental grants of planning permission for changes of use within buildings earmarked for community uses will undermine and militate against the provision of such very important facilities.

- 10.5. The Board in my view should thread a precautionary path in granting the change of use to retail/restaurant/office use within a building designated for community uses as the demand for such community uses will become more apparent as the population of the area grows. On this basis I would be reluctant to recommend even a grant of temporary planning permission for a change of use as suggested in the grounds of appeal.
- 10.6. The grounds of appeal do not proffer any indication as to where much needed long term community uses will be provided within the overall LAP lands, if floor area designated as community use is whittled away, by applications such as the current one before the Board. There is in my view a concern that incremental changes of use away from community designated uses, may result in little or no space being made available for community type uses in the area, particularly at such a central and accessible located such as the subject site.
- 10.7. It is acknowledged that both retail and restaurant use are permitted under the Z14 zoning objective. It should also be noted that community facilities are also a permitted use under the zoning objective.
- 10.8. The grounds of appeal also suggest that the use of the subject site for a retail unit would enliven the street frontage and generate additional footfall along Main Street and Belmayne Avenue. I accept that an active retail/restaurant usage would generate additional footfall and create more active street frontage at this location. However, the Board should note that there are currently vacant retail units along the

Main Street and a grant of planning permission in this instance may not therefore generate the desired increase in footfall if the units in question were to become or remain vacant after a grant of planning permission.

- 10.9. While it is acknowledged that there is no specific requirement that the building in question be retained for use as a library or indeed other community use. It is nevertheless apparent that the local area plan envisages that a community hub and community uses will be required to serve the wider population. It therefore appears inappropriate in my opinion that a grant of planning permission would be permitted away from community use where such uses are likely to be more in demand as the Belmayne community develops.
- 10.10. On the basis of the above, I would recommend that the Board uphold the decision of Dublin City Council and refuse planning permission for the proposed development.

11.0 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.

12.0 Decision

Refuse planning permission for the proposed development based on the reasons and considerations set out below.

13.0 Reasons and Considerations

The proposed change of use would result in the loss of a potential community use at a strategic location within the Belmayne/Clongriffin LAP which has been designated for community use. The proposed change of use would therefore be contrary to the proper planning and development of the area.

Paul Caprani,
Senior Planning Inspector.

21st September 2020.