



An
Bord
Pleanála

Inspector's Report ABP-310938-21

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| Development | Change of use from laundrette to take-away |
| Location | 1 Ballymount Road Lower, Dublin 12 |
| Planning Authority | South Dublin County Council |
| Planning Authority Reg. Ref. | SD20A/0255 |
| Applicant | Colm Wu |
| Type of Application | Permission |
| Planning Authority Decision | Refuse permission |
| Type of Appeal | First Party vs. Refusal |
| Appellant | Colm Wu |
| Observers | 1. Sean O'Byrne Jnr 2. John O'Brien 3. Bridget Boyd |
| Date of Site Inspection | 18 th March 2022 |
| Inspector | Stephen J. O'Sullivan |

1.0 Site Location and Description

1.1. The site is close to the Walkinstown Roundabout, a major traffic junction in a low density suburban area c.6km south-west of Dublin city centre that was developed in the mid 20th century. The site consists of the curtilage of a two-storey building at the end of a parade of shops and has a stated area of 0.2ha. The stated area of the building on the site 189m². The first floor is in office use. The ground floor is vacant, but its established use is as a laundrette. The site includes land to the rear and side of the building on the site, but not the area between it and the carriageway of the Ballymount Road. This area has a variety of surfaces and a raised path directly in front of the site that is not connected to the footpath along the Ballymount Road, and other hard surfaced areas that were being used for parking at the time of inspection. The adjoining site to the west of the site is the curtilage of a house. There is a terrace of single storey houses across the road from the site.

2.0 Proposed Development

2.1. It is proposed to change the laundrette to a take-away.

3.0 Planning Authority Decision

3.1. Decision

The council refused permission for two reasons. The first reason said the proposed development would lead to overspill parking on the road network and traffic hazard due to the lack of parking facilities, while the second reason stated that the proposed development would set a precedent that would result in traffic hazard.

3.2. Planning Authority Reports

3.3. Planning Reports

The initial planner's report stated that the proposed take-away use was not mentioned in the landuse matrix for the local centre zoning and so was open for consideration. Policies R10 and section 11.3.6 of the 2016 development plan also apply, however the proposed development would not lead to an excessive

concentration of takeaways. Nevertheless the report from the Roads Section seeking the demarcation and repair of parking spaces in front of the premises was noted, as was the fact that this area was not included in the application site. It was recommended that further information be sought on the opening hours of the proposed takeaway and the control of parking in front of it. After the response from the applicant stating that he did not control the area in front of the building, the planner concluded that the applicant had not proposed a solution to the parking issue and so the proposed development would lead to overspill parking and traffic hazard. It was recommended that permission be refused.

3.3.1. Other Technical Reports

The Environmental Health Officer stated that the proposed development was acceptable subject to conditions regarding construction and ventilation and drainage during operation.

The first report from the Roads Department raised no objection to the development subject to the provision of 2 car parking spaces in front of the site. The second report sought details on the ownership of the area between the site and the road and proposals to demarcate 2 car parking spaces there.

3.4. **Third Party submissions**

Three submissions was made that objected to the proposed development on grounds similar to those raised in the subsequent observations on the appeal.

4.0 **Planning History**

There is no relevant recent planning history on the site.

5.0 **Development Plan**

5.1. **South Dublin City Development Plan 2016-2022** –The site is zoned as part of a local centre under objection LC. Policy R10 and section 11.3.6(iii) of the plan refer to

fast food restaurants and takeaways. Both refer to avoidance of a concentration of such uses and the need to avoid nuisances to adjacent properties.

5.2. **Natural Heritage Designations**

None

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The council accepted that the proposed takeaway could be considered under the site's zoning and that the proposed development would not lead to an excessive concentration of such uses. Neither the Environmental Health Officer nor Drainage Department of the council raised objections to the development.
- The applicant does not own or control the area between the site and the public road that is used for car parking. However the proposed development would not lead to additional demands for parking and so would not lead to traffic hazard. As the operation of the take-away would be mainly in the evenings, the demand for parking would be at different times that that generated by the adjacent businesses and so would be less likely to lead to overspill parking and traffic hazard compared to the established use of the premises on the site. The demand for parking would also be reduced by the use of cycle deliveries by the proposed takeaway.

6.2. **Observations**

Three observation on the appeal were submitted from neighbouring residents. They objected to the proposed development on the following grounds –

- The proposed development would lead to an excessive concentration of fast foot restaurants and takeaways, and so would exacerbate the problems that already occur in the area due to litter, noise and anti-social behaviour that are associated with those uses. The practice of people eating purchased food in

parked cars makes this situation worse. A pop up takeaway was in use while the application for permission was pending.

- Ballymount Road is a local road and cannot cater for the traffic that would be generated by the proposed development. The parking situation in the area is chaotic and cannot support the proposed development, which would result in traffic hazard and congestion. The documentation submitted with the application referred to parking on land that the applicant does not own.

6.3. **Planning Authority Response**

The response referred to the council planner's report.

7.0 **Assessment**

- 7.1. The established use of the site allows for a commercial business that serves visiting members of the public. The proposed takeaway would also be a commercial business serving visiting members of the public occupying the same premises. The proposed development would not, therefore, increase the demand for car parking at this location. The reasons for the council's refusal of permission are not justified, therefore. It is evident that the public realm in this area is degraded. The poor physical definition of the areas given over to the carriageway, footpath and car parking and the absence of any apparent system for managing the car parking that is available all give rise to nuisances and inconveniences for road users and traffic congestion. However the proposed development would not affect this situation one way or another. The chaotic state of the public realm here could only be mitigated by a comprehensive approach by the roads authority. It cannot be resolved by works that would be carried out on the current application site or on lands controlled by the applicant. The carrying out of the proposed development would not make it any more difficult to resolve the current problems with parking, while refusing permission would not make it easier or more likely that those problems would be solved.
- 7.2. The observations on the appeal argue that the proposed takeaway would lead to an overconcentration of such uses exacerbating problems with litter, noise and anti-social behaviour. These are reasonable concerns that relate to issues raised by

policy R10 and section 11.3.6(iii) of the development plan. There are numerous outlets for food in the local centre at Walkinstown, as set out in the observations, and there is a fast food restaurant in first premises on Ballymount Avenue next to the roundabout. However the provisions of the plan do not provide an objective standard to determine what constitutes an overconcentration of take-away uses. In the particular circumstances of this case, i.e. the conversion of one additional ground floor unit at the end of the established row of commercial premises along Ballymount Road, I would tend to agree with the conclusions of the council planner that the proposed development would not lead to an excessive concentration of such uses that would threaten the amenities of the area, subject to the imposition of standard conditions regarding opening hours, ventilation and litter.

8.0 Recommendation

8.1. I recommend that permission be granted subject to the conditions set out below.

9.0 Reasons and Considerations

Having regard to the policies and objectives of the South Dublin County Development Plan, 2016-2022, including the LC zoning objective that applies to the site and policy R10 and section 11.3.6.(iii) regarding takeaway outlets, as well as to the established commercial use on the site and the pattern of development in the area, it is considered that the proposed development would not give rise to an increased demand for parking in the area and so would not give rise to any greater degree of inconvenience or obstruction of road users compared to the prevailing situation, and so would not cause any traffic hazard. Furthermore, subject to compliance with the conditions set out below, it is not considered that the proposed takeaway would give rise to an excessive concentration of such uses or that it would seriously injure the amenities of property in the vicinity of the site. The proposed development would therefore be in keeping 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

2. The permitted takeaway shall operate only between the hours of 1200 hours and 2400 hours

Reason: In the interest of the amenities of property in the vicinity.

- 3 Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This scheme shall include the provision of bins and refuse storage facilities.

Reason: In the interest of visual amenity.

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

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

5. 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.

Stephen J. O'Sullivan

Planning Inspector

18th March 2022