



An
Bord
Pleanála

Inspector's Report ABP314528-23

Development	Takeaway service to existing restaurant including alterations to interior layout and façade.
Location	Friar Street, Thurles, Co. Tipperary.
Planning Authority	Tipperary County Council.
Planning Authority Reg. Ref.	22421.
Applicant	Noel Garraghan.
Type of Application	Permission.
Planning Authority Decision	Permission with conditions.
Type of Appeal	Third Party
Appellants	Paul and Roisin Scully.
Observers	None
Date of Site Inspection	29 th June 2023.
Inspector	Derek Daly.

1.0 Site Location and Description

- 1.1. The development is located at the junction of Friar Street and Old Baker Street in the town centre of Thurles. Friar Street which is also the R660 Cashel Road is an arterial route leading out westwards from Liberty Square the main focus of the town located approximately 150 metres to the east and is a commercial street with a mix of retail and commercial uses and some level of residential development in particular on the southern side of the street. Old Baker Street is a pedestrian street linking Friar Street to the south with a car park to the north accessed from Parnell Street and has a mix of residential and commercial uses including a residential property immediately to the north of the appeal site. Bollards prevent access from Friar Street onto Old Baker Street.
- 1.2. The appeal site has a restaurant use fronting onto both streets and is accessed from Friar Street which defines the sites southern boundary. The building is two storied with a flat roof which is similar in height to other buildings in the immediate area and streets. The adjoining property to the east is in commercial use. Along this section of Friar Street, on-street parking is restricted and there is a pedestrian crossing just immediately to the west of the Old Baker Street junction.

2.0 Proposed Development

- 2.1. The development as applied for is for a takeaway service to existing restaurant including alterations to interior layout and façade. The floor area of the existing premises is stated as 94.74m². The primary elevational change is the provision of a new entrance onto Old Baker Street with signage over the new entrance. The Old Baker Street elevation is currently is a blank façade. Internally there is provision for a sales counter.

3.0 Planning Authority Decision

3.1. Decision

The decision of the Planning Authority was to grant planning permission subject to four conditions. Condition no 3 regulates signage and condition no. 4 the hours of operation from 08.00 to 23.00 Monday to Sunday.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 29th July 2022 refers to the site's location within an Architectural Conservation Area and zone of archaeological potential and provisions of the development plan. Reference is made to a previous decision on the site that there was no objection to the principle of a takeaway and that the additional entrance onto Old Baker Street with the link to the Parnell car park addresses traffic concerns in relation to Friar Street and the district engineer recommends approval. Permission was recommended.

4.0 Planning History

P.A. Ref. No. 98/54/1694. This was a grant of planning permission for a change of use from a video shop to a pizza restaurant which included a condition excluding use of takeaway.

ABP Ref.No.PL92.248676 / P.A. 1760291 was an application for a takeaway and retention of signage. The decision of An Bord Pleanála on appeal was to grant the signage and a refusal of the takeaway.

The reason for refusal stated;

Having regard to the location of the site fronting onto the R660 regional road, the lack of set down parking in the vicinity and the nature of the take-away use which would encourage on-street parking, it is considered that the proposed take-away element to the existing restaurant would encourage parking on the regional road and would endanger public safety by reason of traffic hazard and obstruction of road

users. The proposed take-away element would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy and Context

5.1. Development Plan

The statutory development plan is the Thurles Town and Environs Plan 2009. The site is located within the town centre zoning and is also within the Liberty Square/West Gate/Friar Street Architectural Conservation Area. Restaurants are a permitted use in the town centre zoning and takeaways are open for consideration within this zoning.

Chapter 5 refers to Economy and town centre and section 5.6.1 specifically refers to Take-away outlets indicating *in considering applications for new take-away outlets, the Councils will have regard to the need to preserve the amenities and the character of the town. 'Take-aways' tend to generate noise, odour and litter, and can cause disturbance to nearby residents, particularly late at night. The Councils consider that the town of Thurles is well provided with fast food outlets at present.*

There is also a Policy ECON 9: Take-away outlets where it is indicated *it is the policy of the Council to fully resist any further take away outlets in Thurles due to their negative impact on the surrounding environment. Proposal for 'take away' food as part of a sit down restaurant will be considered against the likely impact on local amenity, litter generation and noise. Opening hours of these premises will be strictly controlled.*

5.2. Natural Heritage Designations

None relevant

5.3. EIA Screening

5.4. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of appeal can be summarised as follows:

- The appeal refers to the site history and previous refusal of takeaway applications on the site.
- The additional entrance onto Old Baker Street does not address previous concerns. Customers will still use Friar Street as the main entrance and this will encourage illegal parking causing congestion on a regional road.
- Reference is made to photographs of illegal parking on the street when an illegal takeaway was operating on the premises.
- There is a saturation of takeaway premises in the town.
- Reference is made to Old Baker Street which has 7 commercial premises and 7 residential properties and that the proposal will adjoin a residential property and will be in close proximity to others and
- The development as proposed is not in the interests of the proper planning and sustainable development of the area.

6.2. Applicant Response

The applicant in a response indicates that;

- There are several parking options in short walking distance to the site including parking 40 metres to the west on Friar Street, 25 metres to the east along Friar Street 60 metres to the north in the Parnell Street car park and a large parking area 150 metres to the west on Liberty Square.
- The public are expected to adhere to all parking regulations.
- The additional access onto Old Baker Street will provide further convenient access.
- The property would continue to be used as a restaurant. a closing time of 23.00 will be a deterrent to anti-social behaviour.

7.0 Assessment

7.1. The main issues in this appeal are the grounds of appeal to the planning authority decision. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- Planning policy.
- The grounds of appeal to the planning authority's decision
- Appropriate Assessment

7.2. Planning Policy

7.2.1. The site is located within an area zoned for town centre uses. Within this zoning 'restaurants' are a permitted use, while 'takeaways' are 'open for consideration'. Policy Econ 9 states that it is the policy of the Council to fully resist any further take away outlets in Thurles due to their negative impact on the surrounding environment. Proposal for 'take away' food as part of a sit down restaurant will be considered against the likely impact on local amenity, litter generation and noise.

7.2.2. Having regard to the stated provision the principle of a takeaway can be considered but judged on the merits of the proposal in the context of the site and immediate area.

7.3. The planning authority's decision.

7.3.1. The planning authority in their assessment having rereviewed the previous Board decision considered that there was no objection to the principle of a takeaway and that the additional entrance onto Old Baker Street with the link to the Parnell car park addresses traffic concerns in relation to Friar Street and the district engineer recommends approval.

7.3.2. The appellant in the grounds of appeal has stated that the additional entrance onto Old Baker Street does not address previous concerns in refusing the use of the premises as a takeaway as customers will still use Friar Street as the main entrance and this will encourage illegal parking causing congestion on a regional road and reference is made to photographs of illegal parking on the street when an illegal

takeaway was operating on the premises. The high level of residential properties in particular on Old Baker Street if referred to.

- 7.3.3. On an inspection of the site and area there is a lack of legal on street parking immediately close to the site on Friar Street and a frequent pattern of patrons availing of a takeaway is to park in as close to the premises as possible. The street is not particularly wide and there is also a pedestrian crossing in close proximity.
- 7.3.4. The proposal provides for a new access point onto Old Baker Street on the basis that patrons will park in the car park to the north of Old Baker Street and walk down this street to use the takeaway but this will if it occurs bring additional pedestrian movement down a small narrow pedestrian street with a high level of residential properties and although the hours of operation are limited by condition to closing at 23.00 it will introduce a level of additional late night activity into this street with an increased likely impact on local amenity, litter generation and noise not currently occurring notwithstanding that the area is zoned town centre.
- 7.3.5. The main access point of the premises and visibility is likely to remain Friar Street. The appeal site does not have carparking and there is no on-street parking in the immediate area on Friar Street and patrons will have to travel a minimum of 30 metres along the street from parking if it is available at that time.
- 7.3.6. There is a large quantum of parking I note in the wider area in the car park to the north, accessed via Old Baker Street, and at Liberty Square and that the wider area is not deficient in parking for a sit-down restaurant as currently permitted on the appeal site. There remains however an issue for 'set down' style parking of the type likely to use a takeaway and creating an additional access onto Old Baker Street does not address this and increases impacts on the residential amenities on this street. Having regard to the overall nature of the area I would consider this a serious issue for congestion and amenity impacts.
- 7.3.7. Although I note that the District Engineer approved the development, I would have concerns in relation to parking and traffic congestion/obstruction on this street for the reasons as outlined and the issues as raised in the previous decision to refuse planning permission for a takeaway on the site are not addressed.
- 7.3.8. In relation to the works proposed the main visual change is the creation of a new entrance onto the Old Baker Street elevation. This elevation is currently a blank

elevation and the proposal as submitted is I consider visually acceptable and the proposal would not be on conflict with any provisions of the current development plan in relation to the site's location within the Liberty Square/West Gate/Friar Street Architectural Conservation Area.

7.4. Appropriate Assessment Screening

7.5. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

8.0 Recommendation

8.1. I recommend that permission be refused.

9.0 Reasons and Considerations

Having regard to the location of the site fronting onto the R660 regional road, the lack of set down parking in the vicinity and the nature of the takeaway use which would encourage on-street parking, it is considered that the proposed takeaway element to the existing restaurant would encourage parking on the regional road and would endanger public safety by reason of traffic hazard and obstruction of road users.

It is also considered that the opening of a new access point onto Old Baker Street which has residential properties in close proximity will introduce a level of additional late night activity into this street with an increased likely impact on local amenity, litter generation and noise.

The proposed takeaway element would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Derek Daly
Planning Inspector
5th July 2023