



An
Bord
Pleanála

Inspector's Report

ABP-315155-22

Development	The erection of signage and all associated site works.
Location	No. 94 Terenure Road North, Terenure, Dublin 6W, D6W TY70.
Planning Authority	Dublin City Council South.
Planning Authority Reg. Ref.	WEB1808/22.
Applicant	Vermilion Indian Cuisine Ltd.
Type of Application	Permission.
Planning Authority Decision	Refusal of Permission.
Type of Appeal	First Party against Refusal of Permission
Appellant	Vermilion Indian Cuisine Ltd.
Observer(s)	None.
Date of Site Inspection	22/09/2023.
Inspector	Enda Duignan

1.0 Site Location and Description

- 1.1. The address of the appeal site is No. 94 Terenure Road North, Terenure, Dublin 6W, D6W TY70. The site is located on the western side of the Terenure Road North, c.30m to the south of the junction of Terenure Road North and Eaton Road. The site comprises the first floor level of an existing end-of-terrace commercial building which is currently in use as a restaurant. There is an existing public house within the ground floor level of the building and there is a dedicated entrance to the first floor restaurant at the southern end of the building's front façade. The appeal site has a stated area of c. 0.114ha.
- 1.2. In terms of the site surrounds, the existing building forms part of a terrace of commercial properties which extends to the north towards the junction of Eaton Road. There is also a strip of commercial properties to the south of the appeal site which are set back from the Terenure Road North and off-street car parking is provided to the front of these properties. There are also a number of residences to the east of the appeal site on the opposite side of Terenure Road North.

2.0 Proposed Development

- 2.1. Planning permission is sought for the erection of signage on the southern (side) and eastern (front) façade of the existing restaurant. The signage on the southern façade of the building comprises a 2.2m high x 1.2m wide billboard style sign which is flat mounted on the first floor level elevation.
- 2.2. The proposal also includes the erection of 3 no. 2.5m high x 0.5m wide projecting, double-sided banner style advertising signs which are positioned between the first floor front windows. From the submitted documentation, it would appear that it is not intended to illuminate the proposed signage.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority refused planning permission for the following 1 no. reason:
 1. Having regard to Section 16.24.3 Signs of Shopfronts and Other Business

Premises of the Dublin City Development Plan 2016-2022 and Dublin City Council's Shopfront Design Guide 2001, it is considered that the proposed billboard signage and banners would add to the visual clutter on the street, would seriously injure the visual amenities of the area and is contrary to the provisions of the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Dublin City County Council Planning Report form the basis of the decision. The report refers to the relevant policy of the County Development Plan (2016-2022) for advertising signage and the Dublin City Council's Shopfront Design Guide, 2001. It was considered within their report that the Applicant's proposals did not accord with the provisions of the forementioned documents, would constitute visual clutter, would have a negative impact on the character of the street and the building as a whole and should therefore be refused permission.

3.2.2. Other Technical Reports

Drainage Division: Report received stating no objection.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. Appeal Site

4814/19: Planning permission refused by the Planning Authority for the removal of existing signage and signage lighting on the south gable wall (southern elevation) at first floor level of The Terenure Inn and the installation of a c. 2.484m high x c. 8.473 wide x c. 210 mm deep digital/electronic LED advertising display panel (with an approximate surface area of c. 19.7 sqm) mounted on a steel frame on the south gable

wall (southern elevation) at the first floor level of The Terenure Inn, including all associated site works and services. The application was refused for the following 1 no. reason:

1. Having regard to the requirements of the Dublin City Development Plan 2016-2022 and in particular section 16.24.3 and Appendix 19, it is considered the proposed advertisement board due to its use of an illuminated digital display, its excessive scale and its prominent position would appear visually incongruous to the streetscape of Terenure Road North and the historic Terenure Village. It is therefore considered that this development if permitted would set an undesirable precedent contrary to the proper planning and sustainable development of this suburban location.

3542/16: Planning Permission granted by the Planning Authority for alterations to existing shop front to comprise (a) Alterations to existing fascia. (b) New hand painted sign. (c) New lighting.

WEB1190/13: Retention permission granted by the Planning Authority for shopfront alterations to the front and side elevations comprising:

- Replacement front and side fascias with backlighting and with internally illuminated block lettering for the Terenure Inn;
- Illumination of the front and side elevation pilasters for the Terenure Inn utilising concealed lighting;
- Removal of the outer entrance doors to create a recessed street entrance for Vermilion Restaurant;
- Replacement entrance doorcase with backlighting, applied medallions, built-in and internally illuminated menu boards, decorative reveal panels and a backlit fascia with integral signage for Vermilion Restaurant. Permitted or deemed compliant external lighting and window boxes mounted above the shopfront level are unchanged. Permitted shopfront awnings at the Terenure Inn are unchanged.

4120/04: Split Decision issued by the Planning Authority for the retention of utility room to rear: open air smoking area with access doorway from lounge.

5046/03: Planning Permission granted by the Planning Authority for off license at 'Terenure Inn' including new shop front entrance and retractable awning.

1889/01: Planning Permission granted by the Planning Authority for an amendment to previously approved planning permission for alterations and additions (Grant Order No. P3374) to incorporate an additional front entrance at the Terenure Inn.

0330/01: Planning Permission granted by the Planning Authority for alterations and additions to Public House comprising (a) demolition of existing kitchen and toilets at ground level and demolition of annex to rear of existing first floor, (b) sub division and extension of existing lounge bar to form new public bar and to accommodate new toilets, staff toilet and kitchen, (c) new shop front and relocated entrance, (d) extension and use of existing stores at first floor for restaurant to include toilets, staff toilet, stores and kitchen.

5.0 Policy Context

5.1. Dublin City Development Plan, 2022 -2028

5.1.1. The Dublin City Development Plan, 2022 -2028 (CDP) was adopted after the decision of the Planning Authority to refuse planning permission. Under the current CDP, the site is within an area zoned 'Z4' (Key Urban Villages and Urban Villages), the objective of which seeks 'To provide for and improve mixed-services facilities'. All lands within the immediate surrounds and to the north and south of the site along the western side of Terenure Road North are attributed a 'Z4' zoning.

5.1.2. Given the nature of the proposed development, Section 15.17.5 (Shopfront and Façade Design) of the Plan is relevant to the consideration of this appeal. The policy notes that shopfront design plays a key part in contribution to the quality of the public realm. Attractive facades and shopfronts have the ability to rejuvenate the streetscape and create an attractive public realm environment. Shopfront signage should:

- Be located at fascia level.
- In the case of shop blinds, comprise traditional retractable canvas awning signs of Shopfronts and Other Business Premises.

- The signage relating to any commercial ground floor use should be contained within the fascia board of the shopfront.
- The lettering employed should be either on the fascia, or consist of individually mounted solid letters mounted on the fascia. The size of the lettering used should be in proportion to the depth of the fascia board.
- Signage internal to the premises, including interior suspended advertising panels, which obscure views into the shop or business and create dead frontage onto the street shall not normally be permitted.
- Corporate signs will only be permitted where they are compatible with the character of the building, its materials and colour scheme and those of adjoining buildings.
- Advertisements and signs relating to uses above ground floor level should generally be provided at the entrance to the upper floors, in a form and design which does not detract from or impinge upon the integrity of the ground floor shopfronts, or other elevation features of the building.
- Shopfronts sponsored by commercial brands will generally not be permitted.

The policy also notes that proposals for shopfront signage shall have regard to the contents of the Retail Design Manual, 2012, Dublin City Council's Shopfront Design Guide, 2001 and the O'Connell Street Area Shopfront Design Guidelines, 2003, where appropriate.

Appendix 17 - Advertising and Signage Strategy

5.2. Natural Heritage Designations

- 5.2.1. There are no designated sites within the immediate vicinity of the appeal site.

5.3. EIA Screening

- 5.3.1. The proposed development does not fall within a Class of Development set out in Part 1 or Part 2, Schedule 5 of the Planning and Development Regulations, 2001 (as amended), therefore no EIAR or Preliminary Examination is required.

6.0 The Appeal

6.1. Grounds of Appeal

The First Party appeal has been prepared and submitted on behalf of the Applicant. The appeal submission provides details with respect to the existing restaurant and an overview of the proposed development. The grounds of appeal can be summarised as follows:

- It is stated that the Planning Authority's fundamental complaint is that the proposal adds to the visual clutter on the street, a damning expression presented as if it is duly derived from the two policy documents for shopfronts referred to within their assessment of the application. It is stated that the reading of both documents show that it is not correct. Within the Development Plan, visual clutter is used in quite different contexts and an examination of the two documents reveal no specific support for an automatic refusal of the small billboard and three banners proposed as part of this application. It is stated that the two documents referred to by the Planning Authority are in fact specific to shopfronts and are not directed at billboards and banners on the above floor.
- It is stated that the proposed first floor billboard and banners are not part of the shopfront. From the policy of the Development Plan, it can be seen that a shopfront is for the purpose designed i.e., a window into a retail business, characterised by being located at pavement level. Unlike an upper floor, a shopfront stands in the pedestrian's normal field of vision and is always directly accessible from the pavement. Furthermore, clear planning distinctions are made between the visually separate shopfront and the floors above within the policy of the County Development Plan.
- It is stated that upper floors remain poorly utilised across the city, and many lie empty behind the elevational features of buildings. The inclusion of the wording 'generally' within the policy of the County Development Plan, is therefore significant and should not be ignored. This allows planning discretion for the support of advertisements and signs in support of viable retail activities on the upper floors. The existing restaurant is a case in point. Whilst the Dublin City Shop Front Guide includes commentary that banners and flags are considered to be an unsuitable form of identification and will not be permitted, this application is for a billboard and banners on an upper floor, not on a shopfront.

Although planning controls apply to the proposed upper floor billboard and banners, the grounds for refusal are not to be found in the two documents referred to by the Planning Authority. Accordingly, the decision to refuse permission fails through a lack of justification and the proposal deserves a fresh consideration.

- The term 'visual clutter' arises in many instances within the policy of the Development Plan. The extension of its use to first floor billboards and banners is inexplicable and spurious. The refusal reason is therefore specious, and it lacks the justification it claims.
- The planning function includes interpreting and applying prescriptive regulations for both controlling and facilitating development. It is contended that the refusal reason in this instance is inadequately founded. It is asserted that visual clutter is in the eyes of the beholder. It is a subjective assessment, an opinion, and its use warrants justification that is specific to an application. It is contended that a professional planning assessment might favor this application as it appears to have been done so at similar locations across the city. It is stated that the application has been designed around modest and familiar facade editions, all entirely at first floor level and solely in relation to the restaurant use on the upper floor level. It is also noted that the proposed billboard signage is small in relation to its distance from the street, small in relation to the side wall it is mounted upon and very small compared to the advertising panel it faces. The proposed signage is not a general advertising board, typically comprising multiple panels and it serves only as restaurant signage. The submitted drawings show that the proposed banners lie within the building outline and project no more than the shop front below. Accordingly, the banners proposed will not oversail the pavement.
- In support of the planning appeal, documentation has been submitted in the form of the owner's personal letter, an additional letter of support for the proposed development from Jim O'Callaghan TD, agent's statement, photographs of banner signage in the wider surrounds and internal photos of the existing restaurant.

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

The main issues are those raised in the Planning Report, the consequent refusal reason and the Appellant's grounds for appeal. Overall, I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development & Visual Impact
- Appropriate Assessment

7.1. Principle of Development & Visual Impact

7.1.1. The proposal seeks planning consent in this instance for the erection of advertising signage on the southern (side) and eastern (front) façade of an existing commercial premises. As noted in Section 2 of this report, the signage on the building's southern façade comprises a 2.2m high x 1.2m wide, flat mounted billboard style sign which is to be erected on the first-floor level elevation. The proposal also includes the erection of 3 no. 2.5m high x 0.5m wide projecting, double-sided banner style advertising signs on the first floor level front (east) elevation and are to be located between first floor front windows. In their assessment of the Application, the Planning Authority formed the view that the proposed signage would constitute visual clutter, would have a negative impact on the character of the street and the building as a whole and should therefore be refused permission. In coming to this conclusion, the Planning Authority had regard to the relevant policy provisions of the County Development Plan in place at the time of the determination.

7.1.2. The Applicant has now appealed the decision to refuse permission and has sought to

justify the proposal within their grounds of appeal. In summary, the submission contends that the Planning Authority's subjective assessment of the application is flawed, and the policy of the County Development Plan has been incorrectly applied given the policy quoted refers to advertising for shopfronts. It is stated that a clear distinction can be made in this instance as the subject proposal relates to the first floor level façade of the building and it is contended that greater flexibility can be afforded in instances such as this. A letter has also been enclosed with the appeal from the owner of the existing restaurant. In summary, this letter in summary sets out concerns regarding the viability of the existing restaurant in the absence of the proposed advertising signage.

7.1.3. Under the current CDP, Section 15.17.5 provides design guidance with respect to 'Shopfront and Façade Design'. I am of the view that this policy is also directly applicable to the subject proposal, irrespective of the restaurant being located at first floor level and it is clearly evident that the proposals relate to the façades of the existing building. The policy notes that attractive facades and shopfronts have the ability to rejuvenate the streetscape and create an attractive public realm environment. Critically, it states that 'Advertisements and signs relating to uses above ground floor level should generally be provided at the entrance to the upper floors, in a form and design which does not detract from or impinge upon the integrity of the ground floor shopfronts, or other elevation features of the building.' Dublin City Council's Shopfront Design Guide (2001) notes that the main objective of signage is to identify a premises and its occupant. In order to avoid visual clutter, the number of attachments to a premises should be minimised. The guidelines also state that banners and flags are considered to be unsuitable forms of identification and will not be permitted.

7.1.4. The existing premises is prominently located along Terenure Road North due to the pattern of the existing streetscape and by reason of its siting forward of the property to the immediate south. I note that there is existing signage above the ground floor level entrance to the restaurant which is legible within the streetscape context. The existing signage is relatively modest in size and is generally in keeping with the fascia signage utilised by other businesses within this commercial strip. From a review of the submitted documentation (i.e. plans and elevations) and the 'Trial Photo Montage', I

would share the concerns of the Planning Authority with respect to the potential visual impact of the proposed signage on the first floor level elevations of the building. This, in my view, would both contribute to a sense of visual clutter and would detract from the character of the existing building which currently provides a positive contribution to the existing streetscape character. I have concerns with respect to the overall quantity of signage proposed in this instance and the potential undesirable precedent a proposal of this nature may establish for other buildings along this commercial strip or elsewhere. For this reason, I consider the proposed development to be contrary to the policy provisions of the current County Development, would contribute to a sense of visual clutter within the streetscape and would detract from the overall character of the existing building. It is my view therefore, that permission should be refused for the proposed development.

7.2. Appropriate Assessment

- 7.2.1. Taking into consideration the modest nature, extent and scope of the proposed development, the nature of the receiving environment, with no direct hydrological or ecological pathway to the European site, that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

I recommend that the planning application be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to Section 15.17.5 (Shopfront and Façade Design) of the Dublin City Development Plan 2022-2028 and Dublin City Council's Shopfront Design Guide 2001, it is considered that the proposed advertising signage is excessive at this location, would create a sense of visual clutter within the streetscape, would detract from the character of the existing building and would seriously injure the visual amenities of the area. For this reason, the proposed development is contrary to the provisions of the Dublin City Development Plan

2022-2028 and 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.

Enda Duignan

Planning Inspector

25/09/2023