



An
Bord
Pleanála

Inspector's Report

ABP-319117-24

Development	Retention of 3 no. mobile food trucks in car park of industrial warehouse unit
Location	Unit 104, Coolmine Industrial Estate, Coolmine, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW23A/0376
Applicant(s)	James Jordan
Type of Application	Retention permission
Planning Authority Decision	Refusal for 2 no. reasons
Type of Appeal	First Party v. Refusal
Appellant(s)	James Jordan
Observer(s)	None
Date of Site Inspection	10 th May 2024
Inspector	Bernard Dee

1.0 Site Location and Description

- 1.1. The appeal site is located within Coolmine Industrial Estate which is located to the SW of the Blanchardstown Shopping Centre and to the north of the Royal Canal in Dublin 15. There are a variety of commercial and other uses located within Coolmine Industrial Estate and Unit 104 is located on Porters Road within the NW section of the estate.
- 1.2. Unit 104 is in use for multiple purposes and the NE section of the building which is within the red line application area is used as a carpet showroom, a snow sports equipment shop, a pizza take-away outlet, a noodle bar, a vitamins shop and a take-out grill restaurant.
- 1.3. To the north of Unit 104, the area lined out as parking spaces is occupied by 2 no. café/food takeaway mobile units for which retention permission is sought – International Fresh Fish and Doci Coffee. (The application relates to the retention of 3 no. food trucks). Retention permission is also sought for alterations to the site layout and parking arrangements and for the relocation of a refuse area (within a palisade fence) and all associated signage and ancillary works.

2.0 Proposed Development

- 2.1. Retention permission is sought for the 3 no. café/food takeaway mobile units referenced above and retention permission is also sought for alterations to the site layout, parking arrangements, the relocation of a refuse area (within a palisade fence) and all associated signage and ancillary works.
- 2.2. The red line site area is stated to be 0.1294ha and the floor area for which retention is sought is 33m².
- 2.3. The Board should note that on the date of the site inspection, Friday 10th May 2024, there were 2 no. food trucks present at the appeal site and cars were parked in the spaces previously occupied by the third food truck.

3.0 Planning Authority Decision

3.1. Decision

Permission for the development to be retained was refused on 26th January 2024 for 2 no. reasons.

1. The subject site is zoned under the Local Centre Objective and it is considered having regard to the large number of take away facilities operating from building units located with the LC-Local Centre lands to permit retention permission for these 3 no. food trucks/Kiosks would contravene Objective EE0105 of the Fingal Development Plan 2023-2029, would constitute a haphazard form of development which over spills from the permitted units into the parking area which is inconsistent with the established character and would therefore be contrary to the proper planning and sustainable development of the area.

2. The location of the food trucks/ kiosks has introduced additional pedestrian movement to the vehicular entrance of the site which is considered a point of conflict and the development therefore constitutes a traffic hazard and is contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report on file makes the following observations.

- As the application site is zoned under the Local Centre Objective and it is considered having regard to the large number of take away facilities operating from building units located with the LC-Local Centre lands to permit retention permission for these 3 no. food trucks/Kiosks would contravene Objective EE0105 of the Fingal Development Plan 2023-2029.
- The development constitutes a haphazard form of development which over spills from the permitted units into the parking area which is inconsistent with the established character and would therefore be contrary to the proper planning and sustainable development of the area.

- The presence of the kiosks has rendered the parking spaces on which they are located unusable and the applicant has not demonstrated that the remaining parking is sufficient to meet the needs of customers using the established uses within Unit 104.
- The issue of pedestrian safety due to the increased traffic generated by the takeaway units and the resulting direct conflict arising between pedestrian and vehicular traffic has not been addressed by the applicant. The current situation constitutes a traffic hazard at this location.
- The visual impact of the kiosks is adverse at this location and is therefore not acceptable to the Planning Authority.
- Neither EIA nor AA is required in relation to the development for which retention is sought.

3.2.2. Other Technical Reports

- Transportation Planning Section – recommend refusal due to the loss of parking spaces to serve Unit 104 and the pedestrian/vehicular conflict constituting a traffic hazard.
- Water Services Department - no objections subject to conditions.
- Environment Section (Waste Enforcement and Regulation) - no objections subject to conditions.

3.2.3. Prescribed Bodies

- Irish Water - no objections subject to conditions.

3.2.4. Observations

- None received.

4.0 Planning History

4.1. On the Appeal Site

- Ref. FW14A/0129 – Permission was granted on 27th April 2015 subject to 5 no. conditions for a change of use of part of the overall ground floor area from a hairdressers to use as hot/cold food processing, preparation & distribution outlet.
- Ref. FW09A/0031 – Permission was granted on 8th June 2009 subject to 7 no. conditions for 2 no. pedestrian entrance doorways replacing existing windows in existing north elevation and the change of use of part of the ground floor retail carpet shop and first floor storeroom to hot / cold food processing, preparation and distribution outlet.
- ENF22/145B – A warning letter was issued on 14th September 2022 in relation to the unauthorised installation of food trucks within the parking area of Unit 104.

4.2. In the Vicinity of the Site

- No relevant cases within close proximity of the appeal site.

5.0 Policy and Context

5.1. Development Plan

Fingal County Development Plan 2023 - 2029 is the statutory plan for the area within which the appeal site is located. The policies and objectives relevant to this appeal are listed below.

- The appeal site is zoned 'LC' Local Centre where the objective is to 'protect, provide for and/or improve local centre facilities'.
- The vision for LC zoned areas is to 'provide a mix of local community and commercial facilities for the existing and developing communities of the County. The aim is to ensure local centres contain a range of community, recreational and retail facilities, including medical/ dental surgeries and childcare facilities, at a scale to cater for both existing residential development and zoned undeveloped lands, as appropriate, at locations which minimise

the need for use of the private car and encourage pedestrians, cyclists and the use of public transport. The development will strengthen local retail provision in accordance with the County Retail Strategy’.

- Within the LC zoning objective ‘Fast Food Outlet/Take-Away’ uses are deemed ‘Permitted in Principle’.
- Objective EEO99 – Level 5 Centres - Ensure the development of Level 5 Centres as sustainable, vibrant and prosperous Local Shops and Small Villages performing at a level within the Fingal Retail Hierarchy to meet the retailing needs of immediate local populations and catchment populations.
- Objective EEO100 – Retail Provision in Level 5 Centres - Where a gap in the retail provision of a Level 5 Centre is identified and established, facilitate appropriately scaled improvements to the retail offer and function of Level 5 Centres and ensure their sustainable development by enhancing the existing Centre for each and directing new retail opportunities into the Centres.
- Objective EEO105 – Prevent Over-Supply of Specific Uses / Outlets - Prevent an over-supply or dominance of fast food outlets, takeaways, off licences, adult shops, gaming arcades and betting offices in the main streets of towns and villages, shopping centres and local centres to ensure that injury is not caused to the amenities of these streets and centres through the loss of retail opportunities.
- Chapter 14 development Management Standards - 14.15.4.2 Types of Retail Development - a. Fast food/Takeaway Outlets - Fast food outlets have the potential to cause disturbance, nuisance and detract from the amenities of an area and as such, proposals for new or extended outlets will be carefully considered.
- Objective DMSO96 – Fast Food / Takeaway Outlets - Development proposals for fast food/takeaway outlets will be strictly controlled and all such proposals are required to address the following:
 - The cumulative effect of fast food outlets on the amenities of an area.
 - The effect of the proposed development on the existing mix of land uses and activities in an area.

- Opening/operational hours of the facility.
- The location of vents and other external services and their impact on adjoining amenities in terms of noise/smell/visual impact.

5.2. Natural Heritage Designations

There are no designated European sites in the vicinity of the appeal site.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The First Party, in summary, puts forward the following planning grounds of appeal.

- The food kiosks were set up during the Covid pandemic and serve many businesses within Coolmine Industrial Estate and have proved a much needed benefit to the industrial estate.
- The presence of the kiosks within the industrial estate reduces lunchtime traffic outflow from the estate into the surrounding area in search of lunch venues.
- The customer catchment area for the food kiosks is based on staff and customers within Coolmine Industrial Estate itself as there is no similar facility within the estate.
- As the customers of the food kiosks are predominantly locally based there has been marginal additional foot traffic generated by the presence of the kiosks.
- An online petition in support of the retention of the food kiosks has exceeded 700 signatures.

6.2. Planning Authority Response

- The Planning Authority has responded that it has no further comment to make in relation to the appeal but that if the Board decide to grant retention permission in this case that a financial contribution condition be attached to the Board Order.

6.3. Observations

- None received.

7.0 **Assessment**

7.1. Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.

7.2. The primary planning issue therefore is the issue of whether the retention of the food trucks is in accordance with the relevant policies and objectives set down in the Development Plan and whether the retention of the kiosks would endanger public safety by reason of traffic hazard. The issue of AA Screening is also addressed in this assessment.

7.3. Development Plan Policy Compliance

7.3.1. I note that 'Fast Food Outlet/Take-Away' uses are deemed to be 'Permitted in Principle' in the LC zoning objective. The zoning matrix does not distinguish between mobile or static food outlets. I would be of the opinion therefore that the retention of the food trucks at the appeal site would be acceptable in principle subject to compliance with other Development Plan standards.

7.3.2. Policy Objectives DMSO96 and EEO105 relate to the development control standards to be applied to fast food/takeaway outlet development and the need to limit their proliferation due to the potential adverse impacts that may be associated with this type of development. I would consider these policy objectives to be both reasonable and necessary with relation to the type of development proposed for retention.

7.3.3. The kiosks represent a piecemeal form of development in an area where a multitude of uses and activities are carried out within the envelope of the permitted units.

While the kiosks may fulfil a certain role for staff and customers within the estate, I believe that it is disingenuous of the appellant to say that these kiosks fulfil a role not currently provided for when there are several fast food/takeaway businesses within Unit 104 itself and included in the red line application boundary (retention of these uses is not sought in this application).

7.3.4. No objective data has been submitted by the appellant to support claims that the role of the kiosks are primarily to serve customers within the estate, nor in relation to numbers of customers per day, opening hours, health and safety regulation compliance, waste disposal arrangements or rest rooms for customers.

7.3.5. Having regard to the piecemeal and temporary/mobile nature of the kiosks, and to the Development Plan aim to reduce the proliferation of such uses in inappropriate places, combined with the absence of any objective data submitted in support of the appellant's claims as to the benign nature of the kiosks, I would recommend that a refusal of retention be issued by the Board in this case.

7.4. Traffic Hazard

7.4.1. The second reason of refusal issued by the Planning Authority relates to the traffic hazard potential related to the retention of the kiosks particularly in relation to the significant potential for pedestrian/vehicle conflict. The issue of the kiosks being located on designated parking spaces ancillary to the use of Unit 104 was also of concern to the Planning Authority.

7.4.2. Having inspected the site I am of the opinion that there is a pedestrian/vehicle conflict at the appeal site which needs to be addressed. There is currently no regulation of vehicular traffic or pedestrian movements other than the road markings painted onto the car park surface indicating the parking bays and also some stop markings on the carriageway. There is no one way system in operation at either of the two entrances onto Porters Road or within the site itself.

7.4.3. The car parking area of Unit 104 serves not only the uses in Unit 104 itself but also a unit to the rear which houses a hardware shop, gym, kids play and party area and a grocery store/off licence. During the site inspection no large trucks were observed entering or leaving the site but the level of car traffic observed could be described as

very high. The additional traffic generated by the kiosks, even though this has not been quantified, in addition to the very high volumes of traffic currently generated by the uses within Unit 104 and the unit to the rear of Unit 104 is likely to increase the pedestrian/vehicle conflict risk at this location.

- 7.4.4. No supporting data has been submitted by the appellant to illustrate that no significant levels of additional vehicular traffic are being generated by the unauthorised use of the car parking area, and no modal split is demonstrated showing that the majority of customers arrive on foot in support of the case for the retention of kiosks at this location.
- 7.4.5. The issue of the loss of parking spaces available to the users of Unit 104 which these spaces are ancillary to has not been addressed by the appellant in his submission. I have not sought out the planning history for Unit 104 but it would be a reasonable presumption that the car parking spaces ancillary to the unit were based on predicted traffic generation levels associated with its permitted use(s). The removal by obstruction of 8 no. parking spaces (reduced to 4 no. spaces as observed during the site inspection) may amount to a breach of the standard “in accordance with the submitted plans and particulars” condition affixed to virtually all grants of planning permission and may breach a condition specifying the number of car parking spaces to be provided to serve Unit 104 if such a condition was applied.
- 7.4.6. Having regard to the above, I would recommend, out of an abundance of caution, that the Board refuse permission for the retention of these kiosks due to the traffic hazard potential associated with their use, and that once removed, the parking spaces revert to their permitted use as ancillary parking for Unit 104.
- 7.5. AA Screening
 - 7.5.1. Having regard to the relatively minor development for which retention is sought, 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

I recommend that retention permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The development for which retention is sought is located in an area zoned LC-Local Centre in the current Fingal County Development Plan 2023-2029 for which the Objective in relation to fast food/takeaway outlets is EE0105 which seeks 'to prevent an over-supply or dominance of fast food outlets'. This objective is considered reasonable. The proposed development would contribute to the proliferation of fast food/takeaway outlets in this area and would, therefore, contravene the development objective as set out in the Development Plan and be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location and scale of the development and the traffic potentially generated by it in addition to the already high levels of traffic entering and exiting the site, it is considered that the additional traffic associated with the proposed development would endanger public safety and would lead to conflict between other road users, that is, vehicular traffic, pedestrians and cyclists, and that the development therefore constitutes a traffic hazard and is 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.

Bernard Dee
Planning Inspector

13th May 2024

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319117-24		
Proposed Development Summary	Retention of food trucks in the car park of industrial warehouse unit		
Development Address	Unit 104, Coolmine Industrial Estate, Coolmine, Dublin 15		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	√
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			

		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes				Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: 13th May 2024

Bernard Dee