



An
Bord
Pleanála

Inspector's Report ABP319167-24

Development

Provision of an ancillary off-licence sales area of c.63.61sqm. in the ground floor retail unit.

Location

Retail Unit 1, Block C, New Bancroft Centre, Greenhills Road, Tallaght, Dublin 24.

Planning Authority

South Dublin County Council.

Planning Authority Reg. Ref.

SD23A/0316.

Applicant(s)

Tesco Ireland Limited.

Type of Application

Permission.

Planning Authority Decision

Grant permission.

Type of Appeal

Third Party

Appellant(s)

Gerard Stockil on behalf of Tallaght community Council.

Observer(s)

None.

Date of Site Inspection

09/05/24.

Inspector

Anthony Abbott King.

1.0 Site Location and Description

- 1.1. The applicant site comprises the ground floor of a mixed use commercial and residential building at the 'Bancroft Centre' on the north side of the N81 between the Old Bawn Road and R819 junctions.
- 1.2. The ground floor unit is located above an under-croft car park with apartments above. The unit was previously vacant.
- 1.3. Site area is given as 0.16235 hectares.

2.0 Proposed Development

- 2.1. The proposed development comprises change of use of part of a larger authorised retail ground floor area for the purposes of an ancillary off-licence sales area comprising circa. 63.61sqm.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted planning permission subject to one condition.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The decision of the CEO of South Dublin County Council reflects the recommendation of the planning case officer.

3.2.2. Other Technical Reports

Environmental Health recommends a request for additional information in order to clarify certain matters of operation including noise. The planning case officer notes that the application is for a change of use within an existing retail floor area and as such there is an established retail use on site.

4.0 Planning History

The following planning history is relevant.

Register reference under SD17A/0015 change of use of part of previously approved retail unit (SD06A/0107) from retail to retail and off-licence sales area.

The planning case officer notes that the permission was not implemented.

Parent permission for retail use of the subject unit was granted under Register Reference SD01A/0211.

5.0 Policy and Context

5.1. Development Plan

The local policy framework is provided by the South Dublin County Development Plan 2022-2028. The relevant policies and objectives in the development plan relate to the functional area of South Dublin County Council (SDCC) and are set-out below:

- Zoning

The relevant land-use zoning objective is VC (Map 9): *'To protect, improve and provide for the future development of Villages Centres.'*

- Chapter 12, Section 12.3 (zoning objectives) Table 12.7 provides that 'off-licence' is a permitted in principal use within the VC zone objective.
- Chapter 12, Section 12.9.5 (retail development) (ii) 'Restrictions on Use' is relevant and states:

An over-concentration of certain uses will be discouraged in urban centres, due to an overriding need to maintain the integrity, quality and vibrancy of centres.

- *The Planning Authority will seek to ensure that the quantum of off-licence and betting offices, particularly within smaller centres, is not disproportionate to the overall size and character of the area and that*

the development would not have a negative impact on the amenity of the area due to noise, general disturbance, hours of operation and litter. The provision of a small section of a convenience shop for an ancillary off-licence use is generally acceptable.

- *The Planning Authority will seek to ensure that the quantum of amusement and gaming arcades, bookmakers, public houses, off-licences and fast food outlets is not disproportionate to the overall size and character of the area.*

- Chapter 9 (Economic Development and Employment), Section 9.7 (Betting Shops / off-licences) is relevant and states:

Policy EDE17: Retail - Off Licences and Betting Offices
Manage the provision of off-licences and betting offices and prevent an excessive concentration of these land uses.
EDE17 Objective 1: To prevent an excessive concentration of off-licence and betting offices in our urban areas.

5.2. EIA Screening

- 5.3. The proposed development is not within a class where EIA would apply.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal submitted by Gerard Stockil, Secretary of Tallaght Community Council, on behalf of Tallaght Community Council, are summarised below.

- Tallaght Community Council broadly welcome Tesco to the Tallaght village providing for the reactivation of a vacant retail unit providing animation of the street between Greenhills Road and village green.
- The appellant has reservations in regard to the scale of the off-licence area comprising the installation of alcohol aisles in store and an alcohol kiosk outside the checkout area beside the main door.
- Litter management is also a concern as the founders of Tallaght Tidy Towns. Alcohol cans, glass bottles and cardboard box holders regularly make up 60% to 70% of the collected litter.
- The small Tallaght village area is well served by off-licences and alcohol sales including 10 off-licences. The appellant's claim that expanding beyond the existing level of circa. 13 outlets in the immediate Tallaght village area does constitute an over concentration of alcohol off licence sales.
- The proposal will create an excess of off-licence use with negative impacts on the footfall attraction into the retail area of the village, public health and littering of plastics and aluminium in the immediate vicinity.
- There are clear planning regulations in the LAP and County Development Plan to avoid an excess of off-licences. It is claimed there is an "over concentration of off-licences", which did not receive an adequate planning assessment citing the relevant development plan policy framework, including ED17 Objective 1 (To prevent an excessive concentration of off-licence and betting offices in our urban areas) and Section 12.9.5 (ii) Restrictions on Uses.
- It is claimed it is unclear how the planning authority calculated the impact of the application on the overall retail mix and balance, which justifies appeal to the Board to examine the proposal.

6.2. Applicant Response

The appeal response prepared by RMLA Planning Consultants, on behalf of Tesco Limited, is summarised below:

- The applicant claims that the concerns of third-parties have been considered by the planning authority and the applicant. Therefore, the grounds of appeal do not raise any new substantive matters.
- The proposed development has been informed by the relevant statutory plans and the Retail Planning Guidelines (2012). The following is of note in terms of compliance with the relevant policy context and broader objectives, including the “Village Centre” zoning objective, the development plan controls and standards, the activation of a vacant unit, the creation of employment and the positive contribution to the vitality and vibrancy of the local centre.
- The proposed development is suitable for its location, addresses existing local need and complies with the development plan and the Retail Planning Guidelines aligned with the role and function of the settlement and the scale and type of retailing identified for the location.
- The appellant claims there is an over concentration of off-licences, which development plan policy discourages in urban areas. However, the development plan also states that *the provision of a small section of a convenience shop for ancillary off-licence use is generally acceptable.*
- It is claimed there is a distinction between a full off-licence and a part off-licence. The proposal is for an ancillary part off-licence where the display and sale of alcohol products is subsidiary to the main use, which is the sale of convenience goods.
- It is claimed that the proposal will not result in an over-supply of off-licences in the area rather it will assist in attracting a convenience retailer to a recently vacant retail unit. Appendix II (Alcohol Sales study) enclosed documents that there are 11 no. premises within 1Km catchment including 3 locations within the immediate local catchment area of 250m, 4 locations within 250-500m catchment and 4 locations within the wider 500m-1Km catchment.
- The proposed alcohol sales area is c. 8.6% of the net sales area of the retail unit. The appellant has included in their appeal document an extract of the proposed ground floor plan to highlight the excessive scale of the alcohol

sales area. However, the appellant has misleadingly highlighted an area almost double the size of the alcohol sales area identified on the submitted drawings.

- The ancillary alcohol sales area will be located within a secure and monitored location within the store. Security staff are employed to deter and intervene in the instance of anti-social behaviour. The alcohol display area will have the benefit of natural surveillance by general staff during operation hours. It is noted that the store will operate a "Think 25" policy: if a person looks under the age of 25 purchasing alcohol products proof of age will be required.
- Tesco Ireland recognise and support the role of the appellant, Tallaght Community council, in managing Tallaght Tidy Towns. The applicant states that if an issue with litter should arise staff of the retail unit will be responsible for the litter collection and removal.

6.3. Planning Authority Response

The planning authority confirms its decision. The issues raised in the appeal have been covered in the CEO Order.

6.4. Further Responses

The appellant made a further submission on the 29/04/24. There are no new matters arising from this submission. I have summarised the this submission below:

- The actual volume of alcohol available for sale for off-premises consumption cannot be mitigated by the segmentation of off-licence sales into stand-alone off licences and supermarket in store sales. There are 12 off-licences within 1 km radius. The appellant maintains that there are enough retailers of alcohol in the village area. If more off-licence sales do not constitute an excess where is the tipping point ?
- The appellant claims that the issue of the daily consumption of alcohol in public areas cannot be separated from off-licence sales. The issue of street drinking has been escalated to the local Garda. The most recent report was

made on the 21st April, 2024. Adding more sources of off-licence retail points will only add to the issue.

- The objection of the appellant is motivated to try to reduce the negative impact from the significant supply of alcohol off-licence sales in the area. It is the residents, including the residents of the 'New Bancroft' who originally objected to the proposal when it was submitted to the planning authority, who live with the constant negative impacts of off licence sales that impacts their quality of life on a daily basis.
- A high percentage (50-60%) of the litter collected is beverage containers – bottles, cans, paper packaging. The plastic bottle / can return scheme has had no impact on alcohol related litter.
- The ratio of lounge / bar alcohol sales to off-licence alcohol sales in the Tallaght Village area is 1:4, which demonstrates an imbalance in alcohol supply.

7.0 Assessment

- 7.1. The following assessment covers the points made in the appeal submission, the applicant response and encapsulates my overall consideration of the application. There are no new substantive matters for consideration.
- 7.2. The development under appeal is for a change of use from retail to ancillary off-licence sales area comprising c.63.61sqm of the ground floor of a larger authorised retail unit. The floor area of the store is given as 1,623.49 sqm. I note that the Tesco supermarket / convenience store was operational on the day of my site visit.
- 7.3. The substantive matter under appeal is the concentration and proliferation of off-licences within the vicinity of the proposed development and broader area. The appellant claims that the consequent impacts are of concern including adverse impacts on public health and on the public realm in terms of anti-social behaviour and litter. The issue of street drinking has been escalated to the local Garda. The most recent report was made on the 21st April, 2024.
- 7.4. The appellant clarifies in their further response of the 29/04/24 that there are 12 off-licence outlets within 1km of the proposal. The original submission to the planning

authority documented 11 off-licence sales locations including stand-alone off-licences (2), public houses (2), supermarket format off licence areas (7). The appellant claims that the issue of the daily consumption of alcohol in public areas cannot be separated from off-licence sales. The appellant in the submission of the 29/04/24 notes that the ratio between lounge / bar alcohol sales to off-licence alcohol sales in the Tallaght village area is 1:4.

- 7.5. The appellant cites Section 12.9.5 (Retail Development) (ii) 'Restrictions on Use' of the South Dublin County Development Plan 2022-2028, which *inter alia* seeks to ensure that the quantum of off-licence and betting offices, particularly within smaller centres, is not disproportionate to the overall size and character of the area and that the development would not have a negative impact on the amenity of the area due to noise, general disturbance, hours of operation and litter.
- 7.6. Section 9.7 (Betting Shops / off-licences) of the South Dublin County Development Plan 2022-2028 provides for the assessment of land use in order to manage the provision of off-licences and betting offices and prevent an excessive concentration of these uses. The appellant cites Policy EDE17 Objective 1, which seeks to prevent an excessive concentration of off-licence and betting offices in urban areas within the County.
- 7.7. I note the comprehensive analysis conducted by the appellant in the matter of the number and the nature of off-licence sales within 1 km of the proposal and the relationship between on premises alcohol consumption and off sales consumption. I noted a stand-alone off licence at "Molloys" prominently located in the Village Green development located approximately 250m from the Tesco store on the day of my site visit. There are also a number of public houses in the vicinity. However, off-licence sales are not visually dominant in the immediate area.
- 7.8. It is acknowledged there are a number of stand-alone off-licence(s) and off-licence sales areas within larger retail outlets in the vicinity. However, I do not consider on balance that the existing off-licence global floor area would constitute in terms of qualitative mix an apparent excessive concentration of off-licence use given the commercial character of the area underpinned by the village centre zoning objective and the ancillary nature of the off-licence use in most instances.

- 7.9. The appellant has also expressed reservations in regard to the scale of the off-licence area comprising the installation of alcohol aisles within the retail store. I note on my site visit that the alcohol sales area is discreetly located at the back of the shop and consists of part of one aisle of the store layout. The area has controlled access arrangements in place.
- 7.10. The appellant has also questioned the nature of the alcohol sales area behind the counter at the front of the shop, which it is claimed may allow for direct access to alcohol only sales at the entrance to the supermarket. The applicant has clarified by way of response that the smaller area of alcohol sales is located within a screened cabinet to the rear of the checkout / customer service desk proximity to the entrance to the store. This area is for higher value items such as spirits, which must be requested from a member of staff.
- 7.11. Section 12.9.5 (Retail Development) (ii) 'Restrictions on Use' of the South Dublin County Development Plan 2022-2028 also states that the provision of a small section of a convenience shop for an ancillary off-licence use is generally acceptable. I note that the development is not a stand-alone off-licence rather an alcohol sales area discreetly located within a controlled access area within a larger convenience store. I consider that the development is acceptable in principle and in detail.
- 7.12. Finally, the appellant is motivated in appeal to try to reduce the negative impact from the significant supply of alcohol off-licence sales in the area. The appellant asks the rhetorical question: If more off-licence sales do not constitute an excess where is the tipping point ?
- 7.13. I acknowledge the serious concerns of the appellant in the matter of public alcohol consumption, loitering and anti-social behaviour within the village area. However, I do not consider that an increase in the global off-licence floor area as proposed would result in a symmetrical intensification of public order issues. It is considered that the primary consideration is the appropriate regulation of off-licence sales. I consider that the applicant has demonstrated appropriate controls and operation procedures to warrant a positive recommendation.
- 7.14. I conclude that the change of use from retail to off-licence sales area, comprising c.63.61sqm of the ground floor of a larger authorised retail unit, is an ancillary and

complementary use to the substantive retail use as supermarket, would not represent an excessive concentration of off-licence land use within the immediate vicinity, would in terms of commercial activity demonstrate appropriate controls and operation procedures, would be consistent with the relevant policy framework of the South Dublin County Development Plan 2022-2028 and, as such, is consistent with the proper planning and sustainable development of the area.

7.15. Appropriate Assessment Screening

The proposed development comprises a change of use of authorised retail floor area within an established urban area.

Having regard to the nature and scale of the proposed development it is possible to screen out the requirement for the submission of an NIS.

8.0 Recommendation

- 8.1. I recommend a grant of planning permission subject to condition having regard to the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the grounds of appeal, the applicant response, the “Village Centre” zoning objective, which provides for “office licence” as a use acceptable in principle, and the relevant policy framework provided by the South Dublin County Development Plan 2022-2028, it is considered that the development, subject to condition, for a change of use from retail floor area to off-licence sales area, comprising c.63.61sqm of the ground floor of a larger authorised retail unit, would be ancillary and complementary to the substantive retail use as supermarket, would not represent an excessive concentration of off-licence land use within the immediate vicinity, would in terms of commercial activity demonstrate appropriate controls and operation procedures, would be consistent with Section 9.7 (Betting Shops / off-licences) and Section 12.9.5 (Retail Development) (ii) ‘Restrictions on Use’ of the

South Dublin County Development Plan 2022-2028 and, as such, would be consistent with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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.</p> <p>Reason: In the interest of clarity.</p>
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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.



Anthony Abbott King
Planning Inspector

24 May 2024