



Bloc 2, Ionad Bheatha na hEireann,
Block 2, Irish Life Centre,
Sraid na Mainistreach Iacht,
Lower Abbey Street,
Baile Atha Cliath 1,
Dublin 1.
Telephone. (01)724755
Fax. (01)724896

Register Reference : 91A/1075

Date : 27th August 1991

Dear Sir/Madam,

Development : Change of use of shop to Chinese takeaway

LOCATION : 654 Whitechurch Road, Rathfarnham

Applicant : L. Newman

App. Type : PERMISSION

I wish to inform you that by Order dated 26.08.91 it was decided to REFUSE PERMISSION for the above proposal.

This decision, together with the conditions/reasons attached thereto, is recorded in the Planning Register kept at this office in accordance with Section 8 of the Local Government (Planning and Development) Act 1963. This register may be inspected during office hours [9.00a.m. - 12.30p.m. 2.15p.m. - 4.30p.m.] and interested party may obtain a certified copy of an entry therein on payment of a fee of £5 in respect of each entry.

It should be noted that the proposer may appeal to An Bord Pleanala against the decision or any conditions attached to the Council's decision within one month beginning on the day of receipt by him of the Council's decision. Any other person may appeal to An Bord Pleanala within three weeks beginning on the date of decision. Interested parties are advised to consult the Planning Authority or An Bord Pleanala to ascertain if an appeal has been lodged by the applicant.

All appeals against decisions of the Planning Authority and all correspondence in relation to new and existing appeals should be addressed to The Secretary, An Bord Pleanala, Blocks 6 & 7 Irish Life Centre, Lower Abbey Street, Dublin 1. (Tel. 728011). Any appeal made to An Bord Pleanala will be invalid unless the correct fee is received by An Bord Pleanala within the statutory appeal period. The fee in respect of an appeal by an applicant for permission relating to commercial development is £100; any other appeal is £50.

Submissions or observations made to An Bord Pleanala by or on behalf of a person (other than the applicant) as regards an appeal made by another person must be accompanied by a fee of £15.

Yours faithfully,

Paul D. Griffin,
8 Rostrevor Terrace,
Orwell Road,
Rathgar.

DUBLIN 6

.....
for PRINCIPAL OFFICER



Bloc 2, Ionad Bheatha na hEireann,
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Mr. J. Byrne & Others,
647 Whitechurch Rd.,
Rathfarnham,
Co. Dublin.

Yours faithfully,

.....L.S.....

for PRINCIPAL OFFICER



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Sean Kennedy,
3 Pearse Brothers Park,
Ballyboden,
Dublin 16.

Yours faithfully,

.....*L.D.*.....

for PRINCIPAL OFFICER

Councillor T. Kitt, T.D.
3 Pine Valley Drive,
Rathfarnham,
Dublin 16.

Our Ref.: 91A/1075

27 August 1991

RE: Proposed change of use of shop at 654, Whitechurch Road,
Rathfarnham, Dublin 16 to Chinese Takeaway for L. Newman.

Dear Councillor Kitt.,

I refer to your recent representations on behalf of Ms. Annie
Wilkson in connection with the above planning application.

I now wish to inform you that by order dated 26th August, 1991
it was decided to Refuse Permission.

Yours faithfully,

L. D.
for Principal Officer.

RK/gdo

15 JUL 91

91A/1075
615

OBJECT

Mr. Albert Smith,
Principal Officer,
Planning Dept.,
Dublin County Council,
Irish Life Centre,
Lower Abbey Street,
Dublin 1.

15th July 1991

Re: Objection to proposal to change newsagent / grocery shop into take-away / fast food shop on the Whitechurch Road, Rathfarnham.

Dear Mr. Smith,

We are the residents of Whitechurch Road starting at Taylors Lane and ending at the little round-about that enters the Whitechurch Estate. We live in a set of 22 semi-detached granite cottages that were built in circa 1917 and are regarded as being unique because of their age and country charm.

We understand that permission has been sought to change the existing newsagency / grocery shop, which is attached to the post office on the Whitechurch Road, into a Take-Away / Fast Food establishment and we strongly object to this on the following grounds :

- 1) We feel the premises are unsuitable because additional traffic congestion will be caused on the road by cars parking while using the take-away. The road is already quite hazardous due to heavy traffic.
- 2) The take-away would be open until late in the evenings and would cause a nuisance to residents from noise at unsocial hours. Many residents have lived on the road all of their lives and are now quite elderly. Those living on either side of the shop would be particularly affected.
- 3) Any such business could possibly devalue the houses close by.
- 4) Such a business would possibly need neon or other signage unsuitable for the line of cottages.

.....

It is on the above grounds that we would hope to stop any further planning permission to change this shop into a take-away.

Yours sincerely,

Residents of Whitechurch Road.

John Byrne 647 WHITECHURCH ROAD ✓
Kathleen Sweeney 653 Whitechurch Rd.
Monica Beatts 644 Waterloogate Rd.
Michael Walsh 642 Whitechurch Rd.
f Kelly 640 Whitechurch
P. HENNESSY 643 WHITECHURCH ROAD.
Mary Donnelly 641 Whitechurch Road.
Ronnie Wilburson 648 Whitechurch Road.
Christopher Whelan 649 Whitechurch Road
AIDEN Donaldson 651 whitechurch ROAD.
D. McQuirk 655 Whitechurch Road
Kathleen Duff 659 Whitechurch Cott's
Syl Mc Mahon 658 Whitechurch cottages
D Bell 657 Whitechurch Cott's.
Pat Curran 656A Whitechurch Road
MRS Eileen Kelly 656 Whitechurch Cott's
Patrick H... 650 Whitechurch Cottages
Joseph Ryan 645 WHITECHURCH COTT'S.

Margaret Dowling	639	Whitechurch Rd.
Christopher Reid	638	Whitechurch Rd.
Pat Scott	636	Whitechurch Cott.
B. Saffrey	236	Whitechurch Cott.
Ann Shelton	237	Whitechurch Cott.
Tony Haelett	646	" "

22/7

8, ROSTREVOR TERRACE,
ORWELL ROAD,
RATHGAR,
DUBLIN 6,
IRELAND.

ARCHITECT & PLANNING CONSULTANT

PAUL D. GRIFFIN
Dip. ARCH, M.R.I.A.I., D.P.M.

Planning Department,
Dublin County Council,
Irish Life Centre,
Lower Abbey Street,
DUBLIN 1.

91A/1075
616

Date 19th July 1991.

Your Ref

Our Ref PDG/SH

Re: Change of Use from Shop to Chinese Takeaway at 654 Whitechurch Road,
Rathfarnham, Dublin 16.
Applicant: Liam Newman. Reg. Ref. 91A/1075.

Dear Sirs,

On the instructions of my Clients:

Grange Golf Club,
Whitechurch,
Rathfarnham,
DUBLIN 16,

I hereby formally object to the above proposal which is currently being determined by your Planning Department. My Clients' grounds of objection are as follows:-

- ZONING: The application site is zoned in the Dublin County Council Development Plan 1983 as zoning objective "A" - "to protect and/or improve residential amenity". Within such a zoning objective the following is a list of uses permitted, open for consideration or not permitted.

Permitted - Residential, private garage, open space, public services, education, church, cemeteries.

Open for

Consideration - Residential institution, doctor/dentist, health centre, community hall, sports club, recreational buildings, cultural uses, guest house, restaurant, shops-neighbourhood, hospital, embassy, car park, garden centre, industry - light, caravan park/residential.

Not Permitted - Dance hall/discotheque, private club, hotel, public house, shops-other, service garage, petrol station, motor sales outlet, heavy vehicle park, advertising/advertising structures, wholesale outlet, cash and carry outlet, industry-general, industry-special, warehousing, scrap yard, extractive industry, concrete/asphalt etc. plant in/adjacent to quarry or mine, abattoir, rural industry-food, rural industry-cottage, caravan park-holiday, airfield/aerodrome, boarding kennels, private tip, commercial recreational undertakings.

Appendix A Part 6 of the Dublin County Council Development Plan defines a shop as follows:

/Over ..

Re: 654 Whitechurch Road, D.14 (Ctd.)

Neighbourhood: This category includes smaller shops giving a localised service in retail trade or business such as sweets, groceries, tobacconist, newspapers, hairdresser, undertaker, ticket agency, dry cleaning and laundry depots, mini-markets.

Other: Shops which are either larger in scale than neighbourhood shops, or are very specialised and therefore serve a wider area.

Whereas the newsagents shop and associated post office use was and is clearly within the definition of a neighbourhood shop, use as a Chinese Takeaway is equally not a local or neighbourhood service and, being a specialised use serving a wider catchment area, is correctly regarded in planning terms as a 'shop - other'. This use is specifically not permitted within a residential A zoning and to grant permission for such a use in a primary residential zone the County Council would be acting *ultra vires*, would be contrary to the zoning objectives and contrary to the proper planning and development of the area.

Clause 3.4.7. of the Dublin County Council Development Plan states as follows re open for consideration:-

"Uses shown as 'open for consideration' are not acceptable in principle and it is important to note that these uses will not normally be permitted. It is only in particular cases where the Planning Authority is satisfied that the uses would not conflict with the general objectives for the zone and would be permitted without undesirable consequences for the permitted uses that they can be allowed. Then subject to other control criteria, they may, in special circumstances, be permitted where the Council considered that they would be consistent with the proper planning and development of the area, regard being had to the provisions of the Development Plan."

As previously submitted and proven, the proposed use is not permitted within a residential zone. However, if one were to view the proposal in a more favourable light from a zoning viewpoint and consider that rather than being "not permitted" it is "open for consideration", i.e. a neighbourhood shop, it is clear based on past experience of takeaway shops, that severe nuisance to the normal residential amenities of residents in the environs of the application site would be created by permitting a Chinese Takeaway and so would be contrary to the proper planning and development of the area.

As stated in Clause 3.3.10A of the Development Plan re "The effects of residential and other amenities by certain shopping and commercial recreational uses:

"In order to ensure the preservation of existing amenities and the proper planning and development of new areas, particular regard will be had to the proposed location and development of uses which could have a detrimental effect on the amenities of an area. Such uses include fish and chip shops, take-away food shops, amusement arcades, pool halls and turf accountants.

These uses can create problems particularly in residential areas by reason of noise nuisance and traffic generation at night and can be responsible for litter problems. The Council will seek to ensure that the development of such uses will be controlled either by way of refusal of permission if it is considered that their development would be prejudicial to the amenities of residential communities."

/Over

Re: 654 Whitechurch Road, Dublin 16. (Ctd.)

There is extensive evidence that takeaways in general create noise nuisance, night time traffic generation and litter problems and, in view of the fact that it is the stated policy of the Dublin County Council, as expressed in their development plan, to preserve the existing residential amenities by protecting them from uses that are not compatible with normal residential amenities, the Planning Department have no alternative but to firmly refuse this application as to do otherwise would be a material contravention of their own Development Plan.

2. NON-CONFORMING USE:

Clause 3.1.7. of the Dublin County Council Development Plan states as follows re non-conforming use:-

"Many uses exist in locations where they do not conform with the designated use zoning objectives set out in Paragraph 3.4.1. All such cases, where legally established, shall not be subject to enforcement proceedings under Section 37 of the 1963 Act in respect of continuing use. Similarly, when extensions to, or improvements of, premises accommodating these uses are proposed, each shall be considered on its merits, and permission may be granted where the proposed development does not adversely affect the amenities of premises in the vicinity, and does not prejudice the proper planning and development of the area, or where permission is necessary for the continuing viability of the premises."

By reference to Section 3 of this submission, it is clear that there is extensive evidence of unauthorised development on this premises/site. It will be clearly shown in this submission that the proposed use will adversely affect the residential amenities in the area and would prejudice the proper planning and development of the area and, therefore, should be refused by the Planning Department.

3. PLANNING HISTORY:

Whitechurch Cottages is a series of County Council cottages built in 1916 in a unique and attractive architectural style, which are almost exclusively in residential use. In fact, 654 Whitechurch Road is the only house that is in commercial use.

Prior to the Planning Act, part of the property was used as a small neighbourhood shop owned by Maureen Mulligan and operated by her niece, Mrs. Croy.

In about 1981, the property was bought by the present owner, L. Newman, who operated the shop and also at about the same time commenced to operate the Ballyboden Post Office from the premises in what was up to then the residential part of the property. It would appear that the newsagency side of the business declined as a result of a new supermarket opening in the nearby Whitechurch Estate. At all times both the newsagency and Post Office operated from the same planning unit. It is not clear from the application, but it would appear that the current proposal is to retain the Post Office as a separate business and sell, lease or sub-let the newsagency business for use as a Chinese Takeaway.

There is only one other planning application in respect of the application site and that was a proposal to erect a garage at the rear of the property (Register Reference 89B/690). This is incorporated as part of the current

/Over

Re: 654 Whitechurch Road, D. 16 (Continued)

application and is noted as "existing store and toilet 5.7^m x 5.1^m, which is a total of 29.07 square metres = 313 square feet. This garage is incorporated into the current application as an integral part of the overall proposal to be used as a general store associated with the Chinese Take-away and as such is a commercial use and, therefore, is an unauthorised use. An unauthorised use does not become an authorised use with the passage of time. The whole front garden and railings were removed, the footpath and kerb dished for the frontage of the property and the front garden finished with tarmacadam. There is no evidence on the public files of the necessary Planning Permission having been sought or obtained in respect of this unauthorised development.

Prior to Mr. Newman purchasing the property in approximately 1981, the previous owners lived on the premises where the current Post Office exists. At that time, it would have been necessary to obtain permission under the Housing Act in addition to the change of use from residential to Post Office under the Planning Acts. There is no evidence on the public files of permission having been sought or obtained in respect of this change of use.

As has been clearly shown, there is extensive evidence of unauthorised development on this property by the present owner and to grant permission for a Chinese Takeaway on the property would make a farce and mockery of the whole planning process. In addition to objections to this planning proposal, I hereby formally notify the Planning Authority Enforcement Section of the following unauthorised development:

1. Unauthorised use of garage as commercial store.
2. Unauthorised levelling of front garden and laying of tarmacadam.
3. Unauthorised change of use of living quarters to Post Office.

I hereby request to be notified of the action taken by your Enforcement Department in this matter.

4. THE PLANNING APPLICATION:

The Local Government (Planning & Development) Regulations 1977 specify, inter alia, the requirements that must be complied with by an applicant in order that the application be considered as a valid application. Clause 20 of the Act referred to herein states as follows:-

- "Plans, drawings and maps accompanying a planning application shall be in duplicate and shall comply with the following requirements:
- (a) Buildings, roads, boundaries, and other features in the vicinity of the structure or other land to which the application relates shall be shown on site plans or layout plans.
 - (b) drawings of elevations of any proposed structure shall show the main features of any buildings which would be contiguous to the proposed structure if it were erected.
 - (c) Plans and drawings of elevations and sections shall be drawn to scale, which shall be indicated thereon, and shall indicate in figures the principal dimensions (including overall height) of any proposed structure and the distances of any such structure from the boundaries of the site.
 - (d) The north point shall be indicated on all maps and plans other than drawings of elevations and sections.

/Over

Re: 654 Whitechurch Road, D. 16. (Continued)

4. THE PLANNING APPLICATION. (Ctd.)

- (e) Plans relating to works comprising reconstruction, alterations or extension of a structure shall be so marked or coloured as to distinguish between the existing structure and the works proposed.
- (f) Plans and drawings shall indicate the name and address of the person by whom they were prepared.

I am fully satisfied, having examined the plans lodged with this application, that the plans, drawings and maps accompanying the application failed to comply with items (a) - (f) inclusive referred to above. By reference to the guidance notes at the back of the Dublin County Council planning application form the applicant has failed to submit a location map to a minimum scale of 1:2500, Ordnance Survey scale, showing the north point. This plan should clearly show the site of the proposed development outlined in red and any adjoining lands in which the applicant has an interest outlined in blue.

The documentation submitted is, in my opinion, inadequate, fails to meet the statutory requirements as set down in the 1977 Act, fails to meet the requirements of the Local Authority as their planning criteria were not complied with, the planning application form was not fully completed and there is prima facie evidence that the documentation is vague and misleading. It has been decided in the Courts in the case of Crodaun Homes Ltd. v Kildare County Council 1983 ILRM Page 1 as follows:

"Upon the true interpretation of Section 26 of the Act of 1963 if an applicant for planning permission does not comply with the permission regulations, then there is no power or jurisdiction in the Planning Authority to grant a planning permission in pursuance of such an invalid application."

The current application, I would submit, is an invalid application and the applicant should be notified accordingly and given the opportunity of re-submitting the application in accordance with the statutory regulations within a specified time frame and if he fails to do so, the application should be refused.

5. TRAFFIC HAZARD:

Due to its location on a bend on a substandard narrow road and its almost exclusive late night use, the proposal would create a traffic hazard to customers and the general public and also to pedestrians. The sight distances are inadequate and as such would result in a serious traffic hazard and would, therefore, be contrary to the proper planning and development of the area.

6. LITTER:

It is a long established fact that properties in the vicinity of take away premises suffer to an unreasonable degree from the effects of customers discarding wrappings and boxes and this aspect of the proposal would be unacceptable on environmental grounds, as discarded food attracts rodents.

/Over

Re: 654 Whitechurch Road, D.16 (Ctd.)

7. LATE NIGHT NOISE:

Takeaway outlets generally have two peak business periods, i.e. 6.00p.m. - 8.00p.m. and 11.30p.m. - 1.30a.m. It is the latter peak business period that would give rise to an intolerable reduction in normal residential amenities and as such would be contrary to the proper planning and development of the area.

8. ADVERTISING SIGNAGE:

The current application does not refer to signage, but based on past experience, Chinese Takeaways have a dismal record in terms of signage. Both the internal and external appearance of these shops are generally unsympathetic to the surroundings.

9. EMPLOYMENT:

Chinese Takeaways are almost exclusively operated and owned by non-nationals who operate a closed shop or cartel and do not employ any locals. It is a popularly held view that as a group they make a nominal contribution to the general economy by reason of employment and various taxes such as P.A.Y.E., P.R.S.I., company tax, personal tax, V.A.T., etc.

10. ROAD PROPOSALS:

The appeal site is adversely affected by a long term proposal to improve the Whitechurch Road and is in the immediate vicinity of the Southern Cross Route. Until such time as these proposals are finalised any intensification of use on the application site would be premature and, therefore, contrary to the proper planning and development of the area.

11. PRESERVATION AND CONSERVATION:

It is the stated policy of the Dublin County Council as expressed in the Development Plan re "Preservation and Conservation":-

"It is the policy of the Council to protect the rural and urban environment of the County.

A policy of preservation will extend to:-

- (a) Buildings of artistic, architectural or historical interest;
- (b) Caves, sites, features and other objects of archaeological, geological or historical interest;
- (c) Views, prospects and amenities of places and features of natural beauty or interest.

In addition, it will be the policy to preserve and protect woods, trees, shrubs, plants and flowers where the Council consider that such protection is required.

Structures offending or likely to offend amenity will be controlled or removed or removed in accordance with the powers given in the Acts."

Whitechurch Cottages are a group of artisan type cottages of artistic, architectural and artistic value and interest and in order to preserve the integrity of Whitechurch Cottages it is essential that all non-compatible development is

/Over

Re: 654 Whitechurch Road, D. 16. (Continued)

refused permission.

It is appropriate to put on record that the age profile of the residents of Whitechurch Cottages is old, so they are extremely sensitive to any insensitive and intrusive development that would adversely affect their privacy, security, sleep pattern and normal residential amenities. Residents are at present suffering intolerable inconvenience caused by customers of a local public house. A takeaway will act like a magnet and draw further late night crowds, thereby increasing the current level of nuisance

12. SUMMARY:

The Council has a statutory obligation to control development by ensuring that permissions granted under the Planning Acts are consistent with the proper planning and development of the area, regard being had to policies and objectives of the Development Plan.

The Local Government (Planning & Development) Acts, require that the Planning Authority, in considering applications for permission to carry out development, shall be restricted to considering the proper planning and development of the area of the Planning Authority (including the preservation and improvements of the amenities thereof), regard being had to the provisions of the Development Plan.

I would submit that this proposal is not consistent with the proper planning and development of the area and would, for the various grounds submitted herein, be seriously injurious to the normal residential amenities of people in the immediate environs of the application site and, therefore, should be firmly refused.

Yours faithfully,


Paul D. Griffin, Dip. Arch.

3 Rivers Bolton Park,
Ballyboden.

91A/1075

592

Dublin 46

July 17th 1991

Recd 17/7/91

Chinese take away.

Dear Sir,

As Chairman of the Peas Brothers

R.O. I put you to the above on the
following conditions.

1st

The road is far too narrow if a bus and
lorry meet one of them have to go up on the
path which is danger to the people coming
out their gates and also the families from
the Whitechurch estate who have to use the
path.

2nd

As the majority of the people of the
Whitechurch cottage are old people and
would not be able for the rain, the dirt
and damage on people using their gardens for

Toilets

3rd.

We have to suffer enough from the
things coming down from the local public
house on week ends kicking our doors
ringing our bells and using our
gardens as Toilets

I hope that the people who are considering
this application will make sure that these
law abiding people will get what they
deserve no planning to a chairise take
away

Yours sincerely,
Sean Kennedy

PLANNING APPLICATION FEES

Reg. Ref. 91A/1075 Cert. No. 25877
 PROPOSAL Change use from Shop to Take Away foods
 LOCATION 654 Whitechurch Road, Rathfarnham
 APPLICANT A. NEWMAN

CLASS	DWELLINGS/AREA LENGTH/STRUCT.	RATE	AMT. OF FEE REC.	AMOUNT LODGED	BALANCE DUE	BALANCE PAID
1	Dwellings	@£32				
2	Domestic,	@£16				
3	Agriculture	@50p per m2 in excess of 300m2. Min. £40				
4	Metres <u>32.50m²</u>	@£1.75 per m2 or £40	4 57 75	56 88	87 ^p Not Sable	
5	x .1 hect.	@£25 per .1 hect. or £250				
6	x .1 hect.	@£25 per .1 hect. or £40				
7	x .1 hect.	@£25 per .1 hect. or £100				
8		@£100				
9	x metres	@£10 per m2 or £40				
10	x 1,000m	@£25 per £1000m or £40				
11	x .1 hect.	@£5 per .1 hect. or £40				

Column 1 Certified: Signed: [Signature] Grade D/TE Date 4/7/91
 Column 1 Endorsed: Signed: Grade Date
 Columns 2,3,4,5,6 & 7 Certified: Signed: [Signature] Grade S.O Date 4/7/91
 Columns 2,3,4,5,6 & 7 Endorsed: Signed: Grade Date

LOCATION GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS, 1963 TO 1982

ASSESSMENT OF FINANCIAL CONTRIBUTION

REG. REF.: 91A/1075

CONT. REG.:

SERVICES INVOLVED: WATER/FOUL SEWER/SURFACE WATER

AREA OF SITE:

FLOOR AREA OF PRESENT PROPOSAL: 350 FT²
J.Y.
4/7/91.

MEASURED BY:

CHECKED BY:

METHOD OF ASSESSMENT:

TOTAL ASSESSMENT

MANAGER'S ORDERED NO: P/ /-
DATED

ENTERED IN CONTRIBUTIONS REGISTER: .

DEVELOPMENT CONTROL ASSISTANT GRADE

Register Reference : 91A1075

Date : 14/8/91

Development :

LOCATION : Whitechurch Plg

Applicant : Rathfarnham

App. Type :

Planning officer :

Date Recd. : 28/6/91

DUBLIN COUNTY COUNCIL
16 AUG 1991
ENVIRONMENTAL HEALTH
OFFICERS

Attached is a copy of the application for the above development. Your report would be appreciated within the next 28 days.

Yours faithfully,

Paul Galin

PRINCIPAL OFFICER

These proposals are unacceptable to this section for the following reasons -

- 1/ The plans contain insufficient information to determine compliance with the Food Hygiene Regulations 1950-83.
- 2/ Existing use of entire premises not shown.
- 3/ The nature & extent of business not shown.
- 4/ The size of the kitchen area is too small.
- 5/ The floor to ceiling height of the kitchen is less than 8ft.
- 6/ Facilities as indicated are insufficient to operate any food take away business.
- 7/ ~~The structure~~ of the kitchen area is not soundly constructed.

I recommend that this proposal be refused -

John O'Kelly
SUPER-ENVIRON. HEALTH OFFICER,
33 GARDINER PLACE,
DUBLIN 1.

21/8/91

PLANNING DEPT.
DEVELOPMENT CONTROL SECT
Date 26.08.91
Time 10.30

John O'Kelly
19/8/91

Register Reference : 91/1075

Date : 14/8/91

Development :

LOCATION : Whitechurch Plg

Applicant : Rathfarnham

App. Type :

Planning Officer :

Date Recd. : 28/6/91

DUBLIN COUNTY COUNCIL
16 AUG 1991
ENVIRONMENTAL HEALTH OFFICERS

Attached is a copy of the application for the above development. Your report would be appreciated within the next 28 days.

PLANNING DEPT.
DEVELOPMENT CONTROL SECT
Date 26.08.91
Time 4.15

Yours faithfully,

cc Paul Dolan

PRINCIPAL OFFICER

These proposals are unacceptable to this section for the following reasons.

- 1/ The plans contain insufficient information to determine compliance with the Food Hygiene Regulations 1950-83.
- 2/ Existing use of above premises not shown.
- 3/ The nature & extent of business not shown.
- 4/ The size of the kitchen area is too small.
- 5/ The floor to ceiling height of the kitchen is less than 8ft.
- 6/ Facilities as indicated are insufficient to operate any food take away business.
- 7/ ~~The structure~~ of the kitchen area is not soundly constructed.

I recommend that this proposal be refused.

By John O'Reilly
19/8/91

John O'Reilly
SUPER. ENVIRON. HEALTH OFFICER,
33 GARDINER PLACE,
DUBLIN 1.

21/8/91

COMHAIRLE CHONTAE ÁTHA CLIATH

Record of Executive Business and Manager's Orders

Proposed change of use of shop at 654, Whitechurch Road, Rathfarnham, Dublin 16 to Chinese takeaway for L. Newman.

Mr. Liam Newman,
Kilmashogue,
Rathfarnham,
Dublin 16.

Reg. Ref. 91A-1075
Appl. Rec'd: 28.06.1991
Floor Area: 32.5 sq. m.
Site Area: 2,000 sq. m.
Zoning:

Report of the Dublin Planning Officer, dated 22 August 1991

This is an application for PERMISSION. The proposed development consists of the change of use of a shop at 654, Whitechurch Road, Rathfarnham, Dublin 16 for chinese takeaway. The applicant is L. Newman who is stated to have a freehold interest in the site.

The Planning History of the site is as follows:

Reg. Ref. YA 1529: Permission granted for proposed extension for storage at rear of 654, Whitechurch Road, Rathfarnham (Decision order PA/2373/83, dated 10th November, 1983).

Reg. Ref. 89B-0690: Permission granted for the proposed erection of garage at rear of 654, Whitechurch Road (Decision order P/2968/89 dated 19th July, 1989).

The site is zoned 'A' in the 1983 County Development Plan with the objective "to protect and/or improve residential amenity." The rear garden of the site is affected by a specific long term road proposal, *which is indicated in the development plan*

No. 654 is one of 12 no. pair of semi-detached cottages fronting onto Whitechurch Road.

The post office is located in part of no. 654, while the remainder of the house is empty. The present application relates to the vacant portion of the house, which the applicant informed me while on site had been in use as a shop up until approximately 1 year ago. It is proposed to continue to operate the post office from the remainder of the premises.

There is a tarmacadamed area in front of no. 654 which allows cars to pull in off Whitechurch Road.

Whitechurch Road is a narrow windy road, the metalled part of which is approximately 5 metres wide. The site is located just south of the junction of Whitechurch Road and Taylors Lane, close to a bend in the road (i.e. to north).

(Continued)

COMHAIRLE CHONTAE ÁTHA CLIATH

Record of Executive Business and Manager's Orders

Proposed change of use of shop at 654, Whitechurch Road, Rathfarnham, Dublin 16 to Chinese takeaway for L. Newman.

(Continued)

The drawings submitted are very poor. The site location map is not acceptable. No window openings are shown on the floor plan submitted, nor have any elevation drawings been lodged.

Several letters of objection including one submitted and signed by the residents of Whitechurch Road (i.e. those living between Taylors Lane and the new roundabout at Whitechurch Estate) have been received. The objectors are opposed to the proposed change of use which they maintain will adversely affect the residential amenities presently enjoyed by them.


Takeaways are, in my opinion, best located in purpose built neighbourhood type centres, rather than in residential areas such as this.

The proposed change of use to a chinese takeaway would seriously injure the amenities of property in the vicinity of the site.

there is no roads repair available at the time of writing
I recommend that a decision to REFUSE PERMISSION be made under the Local Government (Planning and Development) Acts, 1963-1990 for the following (2) Reasons:-

1. The site which is zoned 'A' in the 1983 County Development Plan with the objective "to protect and/or improve residential amenities" is one of a number of dwellings fronting onto Whitechurch Road. The proposed change of use of ~~the~~ shop at no. 654, Whitechurch Road to a chinese takeaway would seriously injure the amenities of property in the vicinity of the site.
2. The proposed development would contravene materially a development objective indicated in the development plan for the use primarily of this area ~~of~~ residential purposes.

MOS
(MOS/DK)

Endorsed:- 
for Principal Officer

Richard Connors SEP
For Dublin Planning Officer
26.8.91

Order:- Pursuant to Section 26(1) to the Local Government (Planning and Development) Acts, 1963-1990 a decision to REFUSE PERMISSION for the above proposal is hereby made by the Council for the () reasons set out above and PERMISSION is REFUSED accordingly.

Dated: 26 August, 1991.

K.O. Sullivan
Approved Officer - Dist. City & Co. Council

to whom the appropriate powers have been delegated by Order of the Dublin City and County Manager, dated 26th August, 1991.

DUBLIN COUNTY COUNCIL

Tel. 72 755 (ext. 262/264)

PLANNING DEPARTMENT,
BLOCK 2,
IRISH LIFE CENTRE,
LR. ABBEY STREET,
DUBLIN 1.

NOTIFICATION OF A DECISION TO REFUSE:

~~SECTION 10(1) APPLICATION~~ PERMISSION: ~~APPROVED~~

LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS, 1963-1983

To Mr. Liam Newman, Register Reference No. 91A-1075
Kilmashogue, Planning Control No.
Rathfarnham, Application Received 28.06.1991
Dublin 16. Additional Information Received 32.5 sq. m.
Applicant L. Newman.

In pursuance of its functions under the above-mentioned Acts, the Dublin County Council, being the Planning Authority for the County Health District of Dublin, did by order, P/ 3995/91 dated 26.08.1991 decided to refuse:

~~SECTION 10(1) APPLICATION~~ PERMISSION ~~APPROVED~~

For change of use of shop at 654, Whitechurch Road, Rathfarnham, Dublin 16
to chinese takeaway.
for the following reasons:

1. The site which is zoned 'A' in the 1983 County Development Plan with the objective "to protect and/or improve residential amenity" is one of a number of dwellings fronting onto Whitechurch Road. The proposed change of use of shop at no. 654, Whitechurch Road to a chinese takeaway would seriously injure the amenities of property in the vicinity of the site.

The proposed development would contravene materially a development objective indicated in the development plan for the use primarily of this area for residential purposes.

Signed on behalf of the Dublin County Council
for PRINCIPAL OFFICER
Date 26th August, 1991.

IMPORTANT:

NOTE: (1) An appeal against the decision may be made to An Bord Pleanala. The applicant may appeal within one month from the date of receipt by him of this notification. The appeal shall be in writing and shall state the subject matter of the appeal and grounds of appeal and should be addressed to *An Bord Pleanala, Irish Life Centre, Lower Abbey Street, Dublin 1*. An appeal lodged by an applicant or his agent with An Bord Pleanala will be invalid unless accompanied by a fee of £36. (Thirty-six pounds). (2) A party to an appeal making a request to An Bord Pleanala for an oral hearing of an appeal must, in addition to (1) above, pay to An Bord Pleanala a fee of £36. (Thirty-six pounds). (3) A person who is not a party to an appeal must pay a fee of £10 (Ten pounds) to An Bord Pleanala in relation to an appeal. When an appeal has been duly made and has not been withdrawn, An Bord Pleanala will determine the application for permission as if it had been made to them in the first instance.

DUBLIN COUNTY COUNCIL

Tel. 72 355 (ext. 262/264)

PLANNING DEPARTMENT,
BLOCK 2,
IRISH LIFE CENTRE,
LR. ABBEY STREET,
DUBLIN 1.

NOTIFICATION OF A DECISION TO REFUSE:

~~PERMISSION~~ PERMISSION: ~~REFUSED~~

LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS, 1963-1983

To Mr. Liam Newman, Register Reference No. 91A-1075
Kilmashogue, Planning Control No.
Rathfarnham, Application Received 28.06.1991
Dublin 16. Additional Information Received 32.5 sq. m.
Applicant L. Newman.

In pursuance of its functions under the above-mentioned Acts, the Dublin County Council, being the Planning Authority for the County Health District of Dublin, did by order, P/ 3995/91 dated 26.08.1991 decided to refuse:

~~PERMISSION~~ PERMISSION ~~REFUSED~~

For change of use of shop at 654, Whitechurch Road, Rathfarnham, Dublin 16
to chinese takeaway.
for the following reasons:

1. The site which is zoned 'A' in the 1983 County Development Plan with the objective "to protect and/or improve residential amenity" is one of a number of dwellings fronting onto Whitechurch Road. The proposed change of use of shop at no. 654, Whitechurch Road to a chinese takeaway would seriously injure the amenities of property in the vicinity of the site.

The proposed development would contravene materially a development objective indicated in the development plan for the use primarily of this area for residential purposes.

Signed on behalf of the Dublin County Council
[Signature]
for PRINCIPAL OFFICER
Date 26th August, 1991.

IMPORTANT:

NOTE: (1) An appeal against the decision may be made to An Bord Pleanala. The applicant may appeal within one month from the date of receipt by him of this notification. The appeal shall be in writing and shall state the subject matter of the appeal and grounds of appeal and should be addressed to An Bord Pleanala, Irish Life Centre, Lower Abbey Street, Dublin 1. An appeal lodged by an applicant or his agent with An Bord Pleanala will be invalid unless accompanied by a fee of £36. (Thirty-six pounds). (2) A party to an appeal making a request to An Bord Pleanala for an oral hearing of an appeal must, in addition to (1) above, pay to An Bord Pleanala a fee of £36. (Thirty-six pounds). (3) A person who is not a party to an appeal must pay a fee of £10 (Ten pounds) to An Bord Pleanala in relation to an appeal. When an appeal has been duly made and has not been withdrawn, An Bord Pleanala will determine the application for permission as if it had been made to them in the first instance.

COMHAIRLE CHONTAE ATHA CLIATH

DUBLIN COUNTY COUNCIL

Issue of this receipt is not an

46/49 UPPER O'CONNELL STREET

DUBLIN 1.

N 44004

received this day of 19.....

from *C. Newell*
London
Kathleen

the sum of Pounds

eight
and
four

Cashier

S. CAREY
Principal Officer

Building Control Department,
Liffey House,
Tara Street,
Dublin 1.
Telephone: 773066



Block 2, Ionad Bheatha na hEireann,
Block 2, Irish Life Centre,
Sraid na Mainistreach Iacht,
Lower Abbey Street,
Baile Atha Cliath 1,
Dublin 1.
Telephone. (01)724755
Fax. (01)724896

Register Reference : 91A/1075

Date : 1st July 1991

LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS, 1963 TO 1990

Dear Sir/Madam,

DEVELOPMENT : Change of use of shop to Chinese takeaway

LOCATION : 654 Whitechurch Road, Rathfarnham

APPLICANT : L. Newman

APP. TYPE : PERMISSION

With reference to above, I acknowledge receipt of your application received on 28th June 1991.

Yours faithfully,

.....
for PRINCIPAL OFFICER

Liam Newman,
Kilmashogue,
Rathfarnham,
Co. Dublin.

654 Whitechurch Rd.
Rathfarnham
Dublin 16.
28 JUN 1991
REG NO 91A/1075
APPLICATION NO. 02/P/A/33L

To Whom it may Concern -

I wish to apply for change of use of shop, delicatessen, newsagent at 654 Whitechurch Rd Rathfarnham to Chinese Takeaway.

Signed




PLEASE READ INSTRUCTIONS AT BACK BEFORE COMPLETING FORM. ALL QUESTIONS MUST BE ANSWERED.

1. Application for Permission Outline Permission Approval Place / in appropriate box.
Approval should be sought only where an outline permission was previously granted. Outline permission may not be sought for the retention of structures or continuances of uses.

2. Postal address of site or building 654 WHITECHURCH RD.,
(If none, give description sufficient to identify) RATHFARNHAM D 16.

3. Name of applicant (Principal not Agent) LIAM NEWMAN
Address KILMASHOGUE RATHFARNHAM Tel. No. 934988

4. Name and address of person or firm responsible for preparation of drawings N. CUNNINGHAM
Kilmashogue Rathfarnham Tel. No. 934843.

5. Name and address to which notifications should be sent AS IN 3.

6. Brief description of proposed development Change of use from shop to Take-away food

7. Method of drainage Public Sewer 8. Source of Water Supply Piped

9. In the case of any building or buildings to be retained on site, please state:-
(a) Present use of each floor or use when last used. —
(b) Proposed use of each floor —

10. Does the proposal involve demolition, partial demolition or change of use of any habitable house or part thereof? No.

11. (a) Area of Site 2000 Sq. m. 56.88 28/6
(b) Floor area of proposed development 32.5 m² N44004
(c) Floor area of buildings proposed to be retained within site — Sq. m.

12. State applicant's legal interest or estate in site (i.e. freehold, leasehold, etc.) Owner - Freehold.

13. Are you now applying also for an approval under the Building Bye Laws?
Yes No Place / in appropriate box.

14. Please state the extent to which the Draft Building Regulations have been taken in account in your proposal:
Only change of use.

15. List of documents enclosed with application. Public's Advertisement
4 sets of drawings
charge for £56.88

16. Gross development (See back) — Sq. m.

No of dwellings proposed (if any) — Class(es) of Development —
Fee Payable £ 56.88 Basis of Calculation 32.5 m² @ £1.75 p m²
If a reduced fee is tendered details of previous relevant payment should be given Class No 4

Signature of Applicant (or his Agent) [Signature] Date 28/6/91.

Application Type P. FOR OFFICE USE ONLY
Register Reference 91A/1075

Amount Received £ — 2.
1.4.0

Receipt No — 22-11
Date —

High Press
15/6/91

LOCAL GOVERNMENT (PLANNING & DEVELOPMENT) REGULATIONS 1977 to 1984.

Outline of requirements for applications for permission or Approval under the Local Government (Planning & Development) Acts 1963 to 1983. The Planning Acts and Regulations made thereunder may be purchased from the Government Publications Service, Office, Sun Alliance House, Molesworth Street, Dublin 2.

1. Name and Address of applicant.
2. Particulars of the interest held in the land or structure, i.e. whether freehold, leasehold, etc.
3. The page of a newspaper, circulating in the area in which the land or structure is situate, containing the required statutory notice. The newspaper advertisement should state after the heading Co. Dublin.
 - (a) The address of the structure or the location of the land.
 - (b) The nature and extent of the development proposed. If retention of development is involved, the notice should be worded accordingly. Any demolition of habitable accommodation should be indicated.
 - (c) The name of the applicant.

NB. Applications must be received within 2 weeks from date of publication of the notice.
4. Four (4) sets of drawings to a stated scale must be submitted. Each set to include a layout or block plan, proposed and existing services to be shown on this drawing, location map, and drawings of relevant floor plans, elevations, sections, details of type and location of septic tank (if applicable) and such other particulars as are necessary to identify the land and to describe the works or structure to which the application relates (new work to be coloured or otherwise distinguished from any retained structures). Buildings, roads, boundaries and other features bounding the structure or other land to which the application relates shall be shown on site plans or layout plans. The location map should be of scale not less than 1: 2500 and should indicate the north point. The site of the proposed development must be outlined in red. Plans and drawings should indicate the name and address of the person by whom they were prepared. Any adjoining lands in which the applicant has an interest must be outlined in blue.
5. In the case of a proposed change of use of any structure or land, requirements in addition to 1, 2, & 3 are:
 - (a) a statement of the existing use and the proposed use, or, where appropriate, the former use and the use proposed.
 - (b) (i) Four (4) sets of the drawings to a stated scale must be submitted. Each set to consist of a plan or location map (marked or coloured in red so as to identify the structure or land to which the application relates) to a scale of not less than 1:2500 and to indicate the North point. Any adjoining lands in which the application has an interest must be outlined in blue.
 - (ii) A layout and a survey plan of each floor of any structure to which the application relates.
 - (c) Plans and drawings should indicate the name and address of the person by whom they were prepared.
6. Applications should be addressed to: Dublin County Council, Planning Department, Irish Life Centre, Lt. Abbey Street, Dublin 1, Tel. 724755.

SEPTIC TANK DRAINAGE: Where drainage by means of a septic tank is proposed, before a planning application is considered, the applicant may be required to arrange for a trial hole to be inspected and declared suitable for the satisfactory percolation of septic tank effluent. The trial hole to be dug seven feet deep at or about the site of the septic tank. Septic tanks are to be in accordance with I.I.R.S. S.R. 6:75.

INDUSTRIAL DEVELOPMENT:

The proposed use of an industrial premises should, where possible, be stated together with the estimated number of employees, (male and female). Details of trade effluents, if any, should be submitted.

Applicants to comply in full with the requirements of the Local Government (Water Pollution) Act, 1977 in particular the licencing provisions of Sections 4 and 16.

PLANNING APPLICATIONS

BUILDING BYE-LAW APPLICATIONS

CLASS NO.	DESCRIPTION	FEE
1.	Provision of dwelling — House/Flat.	£32.00 each
2.	Domestic extensions/other improvements.	£16.00
3.	Provision of agricultural buildings (See Regs.)	£40.00 minimum
4.	Other buildings (i.e. offices, commercial, etc.)	£1.75 per sq. metre (Min. £40.00)
5.	Use of land (Mining, deposit or waste)	£25.00 per 0.1 ha (Min. £250.00)
6.	Use of land (Camping, parking, storage)	£25.00 per 0.1 ha (Min. £40.00)
7.	Provision of plant/machinery/tank or other structure for storage purposes.	£25.00 per 0.1 ha (Min. £100.00)
8.	Petrol Filling Station.	£100.00
9.	Advertising Structures.	£10.00 per m ² (min. £40.00)
10.	Electricity transmission lines.	£25.00 per 1,000m (Min. £40.00)
11.	Any other development.	£5.00 per 0.1 ha (Min. £40.00)

CLASS NO.	DESCRIPTION	FEE
A	Dwelling (House/Flat)	£55.00 each
B	Domestic Extension (improvement/alteration)	£30.00 each
C	Building — Office/Commercial Purposes.	£3.50 per m ² (min. £70.00)
D	Agricultural Buildings/Structures	£1.00 per m ² in excess of 300 sq. metres (min. - £70.00) (Max. - £300.00)
E	Petrol Filling Station	£200.00
F	Development or Proposals not coming within any of the foregoing classes.	£9.00 per 0.1 ha (£70.00 min.)
		Min. Fee £30.00 Max. Fee £20,000

Cheques etc. should be made payable to: Dublin County Council.

Gross Floor space is to be taken as the total floor space on each floor measured from the inside of the external walls.

For full details of Fees and Exemptions see Local Government (Planning and Development) (Fees) Regulations 1984.