



An  
Bord  
Pleanála

## Inspector's Report PL26.247141

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<b>Development</b>	Permission for change of use of a retail shop to use as a fast food takeaway with all associated site works.
<b>Location</b>	Danecastle, Bannow, Co. Wexford.
<b>Planning Authority</b>	Wexford County Council.
<b>Planning Authority Reg. Ref.</b>	20160604
<b>Applicant(s)</b>	Margaret Butler
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First-v-Refusal
<b>Appellant(s)</b>	Margaret Butler
<b>Observer(s)</b>	
<b>Date of Site Inspection</b>	10 <sup>th</sup> November 2016
<b>Inspector</b>	Colin McBride

## **1.0 Site Location and Description**

1.1. The appeal site, which has a stated area of 0.1 hectares, is located within the village of Carrick-on-Bannow, Co. Wexford. The site is located to north of the village and on the eastern side of the public road. The site is occupied by a two-storey building that has a dry cleaning business at ground floor level and the applicant's residential accommodation above. There is a separate single-storey structure to the north of the dry cleaning business and such is unoccupied and was formerly a domestic garage that was permitted change of use to retail. Immediately north of the site is a handball alley and further north of this is detached dwelling. To the east of the site is a field and to the south of the site is a public road.

## **2.0 Proposed Development**

2.1. Permission is sought for the change of use of an existing single-storey structure to use as a fast food takeaway. The existing structure was formerly a garage for which permission was granted under ref no. 20074463 for change of use to a retail unit. The structure has a floor area of 61.18sqm.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission refused based on one reason...

1. The proposed hot food takeaway is located less than 200 metres from a National School and would therefore be contrary to Section 18.18 Hot Food Takeaways of the Wexford County Development Plan 2013-2019. The proposed development would therefore be contrary the proper planning and development of the area.

### **3.2. Local Authority and External reports**

- 3.2.1. Planning Report (21/07/16): It was considered that the change of use proposed was acceptable and would not lead to proliferation of takeaways in the village. In regards to the issue of the national school it is noted that primary school children are not allowed to leave the school grounds and that Development Plan policy regarding schools and takeaways refers to secondary schools. A grant of permission was recommended.
- 3.2.2. Supplementary Planning Report (25/07/16): It is noted that the policy regarding takeaways and schools having regard to Government Guidance does relate to all schools. Refusal recommended based on the reason outlined above.

### **3.3. Third Party Observations**

- 3.3.1 Third party submission were received from Damien Murray, Anita Walsh and Ray Roche. The submission can be summarised as follows.

- Damien Murray operates an existing takeaway on the opposite side of the road and notes the proposal would have an adverse impact on his business. It is noted there are two such outlets in the village at present. The submission also notes Development Plan policy in regards to schools.
- Anita Walsh is the landlord of the existing takeaway premises and notes that a second takeaway premises is unsustainable. The observation also notes concerns regarding noise pollution, litter pollution, parking and its distance from the national school.
- Ray Roche lives in an apartment opposite the appeal site and notes concerns regarding noise and litter pollution and parking. The observer notes there are two food outlets in the village and another one cannot be sustained.

## **4.0 Planning History**

- 4.1 20074463: Permission granted for change of use of domestic garage to drapery store.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The relevant Development Plan is the Wexford County Development Plan 2013-2019. The site is located in the village of Carrick-on-Bannow. In the settlement strategy Bannow would be classified as smaller village. The settlement is not subject to any land use zoning or development boundary.

#### 5.1.2 Section 18.18: Hot Food Takeaways.

The development of hot food takeaways will be strictly controlled and a proliferation of this use will not be encouraged. This type of development will generally only be considered in town, village and neighbourhood centres and where the development would not result in the loss of retail frontage (see Objective ED37). Proposals for this type of development will not be permitted where:

- It is likely to prove detrimental to amenities of nearby residential properties, the visual amenity of the area, and/or give rise to traffic or car parking hazards
- It has not been demonstrated that the use would not result in noise and odour problems for the occupiers of nearby properties
- There is an existing residential unit above
- The change of the use from retail would seriously affect the retail vitality and viability due to the existing concentration of takeaways in the area.
- It is within a 200m radius of educational establishments.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by Margaret Butler, Danecastle, Bannow, Co. Wexford. The grounds of appeal are as follows...

- The appellant wishes that the decision to refuse permission be overturned.

- The appellant notes that the 3 objections submitted lack substance and in regards to the existing takeaway in the vicinity, it is noted there is sufficient business for all.
- In relation to the school it is noted the proposed takeaway will not be open during school hours and the appellant would be satisfied with a condition confining opening hours to the following...

Sunday to Friday 16:30 to 23:30

Saturday 16:30 to 23:59

## 6.2. Planning Authority Response

### 6.2.1 Response by Wexford County Council

- The proposed hot food takeaway is contrary policy 18:18 Hot Food Takeaways as it is 105m from a primary school.

## 7.0 Assessment

7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Physical impact

Development Plan policy

Other Issues

### 7.1 Physical Impact:

7.1.1 The proposal entails a change of use of a detached single-storey structure, which was formerly a garage and has had permission granted for a change of use to a drapery shop, to a takeaway. In regards to location the appeal site is within an existing settlement. The settlement is a small settlement in regards to the settlement hierarchy for the county and there is no land use zoning or development boundary defined for the village. Despite such, I would consider that the location within the built

with adjoining commercial uses evident would mean such is an appropriate location for the proposed development.

7.1.2 In terms of overall physical impact the adjoining development to south and under the applicant's ownership is a two-storey building with a dry cleaning business at ground floor and the applicants residential accommodation at first floor level. Immediately to the north is a handball alley and further north is an existing dwelling. In terms of overall physical impact, the use is not immediately adjacent residential development apart from the applicant's accommodation. I would consider that subject to appropriate conditions regarding operating hours and litter control, that the operation of a takeaway at this location would be acceptable and have no adverse impact on the amenities of adjoining properties. The structure subject to the change of use is setback from the public road with a hardstanding area to front it and the adjoining dry-cleaning business, which would facilitate ample parking for customers.

## **7.2 Development Plan policy:**

7.2.1 Section 18.18 of the County Development Plan relates to takeaways and is outlined earlier in this report. As outlined above I am satisfied that subject to appropriate conditions the proposal would not be detrimental to the amenities of nearby residential properties, the visual amenity of the area, and/or give rise to traffic or car parking hazards. I am also satisfied that there is sufficient separation between the development and residential properties in the vicinity (not including the applicant's accommodation) to demonstrate that the use would not result in noise and odour problems for the occupiers of nearby properties. There is no residential property above the proposed takeaway unit.

7.2.2 The third party submission raised concerns regarding the potential proliferation of takeaways in the area with some refer to there being two existing takeaways in the village. There is an existing takeaway on the opposite side of the road and having inspected the site and the surrounds, this is the only hot food takeaway in the village currently. I would consider that the proposal for another takeaway would not constitute an over proliferation of such uses and would also be satisfied that such would not be damaging to the retail vitality of the village. I would also note that

competition with existing similar uses is not a planning consideration in assessing this appeal.

7.2.3 the last part of Section 18.18 notes that hot food takeaways will not be permitted within a radius of 200m of an educational institution and permission was refused solely for this reason. The proposed change of use is just over 100m from an existing primary school (located south of the site on the western side of the Main Street. I would consider that given the small size of the village it is difficult to comply with this requirement. The applicant/appellant has made the point that this policy refers more to secondary school establishments and that children in primary school do not leave the premises at lunch times. The applicant/appellant has noted that the proposed opening hours are also outside of school times. The initial Local Authority Planning report appeared to accept this argument. In my view the proposal in terms of planning issues related to its physical impact, is acceptable and there are no strong planning reasons for precluding the proposed development. In this regard I would recommend permission be granted and that conditions be attached limiting operating hours to the times suggested by the applicant/appellant, which are outside of school hours.

### **7.3 Other Issues:**

7.3.1 Having regard to the nature and scale of the proposed development and its proximity to 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**

8.1. I recommend a grant of permission subject to the following conditions.

### **9.0 Reasons and Considerations**

Having regard to the established commercial use on the site, the site location in the built up area of Carrick-on-Bannow village, the existing number of takeaways in the village, the on-site car parking provision and the footpath network serving the area, it

is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health, would not seriously affect the retail vitality or viability of the village and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. 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.

Reason: In the interest of clarity.

2. Details of signage shall be agreed in writing with the planning authority prior to commencement of the fast food business on site.

Reason: In the interest of visual amenity.

3. The hours of operation shall be between 16:30 hours and midnight Monday to Friday, between 16:30 hours and 01:00 hours on Saturdays and between 16:30 hours and midnight on Sundays and Bank Holidays.

**Reason:** In the interest of the residential amenities of property in the vicinity.

4. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.



Reason: In the interest of visual amenity.

5. The developer shall control odour emissions from the premises in accordance with measures which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Colin McBride  
Planning Inspector

23<sup>rd</sup> November 2016