



An  
Bord  
Pleanála

## Inspector's Report PL06D.247497

---

<b>Development</b>	Retention for the use of the unit as a coffee shop and permission for a balcony for outdoor seating and ancillary works.
<b>Location</b>	19 Rock Hill, Blackrock, Co. Dublin
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D16A/0595
<b>Applicant(s)</b>	Ouled Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third-v-Grant
<b>Appellant(s)</b>	Howley Hayes Architects
<b>Date of Site Inspection</b>	25 <sup>th</sup> January 2017
<b>Inspector</b>	Colin McBride

## **1.0 Site Location and Description**

1.1. The appeal site, which has a stated area of 0.0237 hectares, is located in Blackrock Town Centre. The appeal site is occupied by a two-storey building on the northern side of Rock Hill. On the northern elevation, the existing structure is a two-storey building over an undercroft car parking area with a small external area linked to the car parking projecting beyond the rear elevation. This area is significantly higher than the ground level to the north (existing car park) with a large concrete retaining wall down to the parking area below. Currently at ground floor level is a coffee shop and at first floor level is office use. The structure to the east has retail at ground floor level and office at first floor level as is the case with the structure to the west.

## **2.0 Proposed Development**

2.1. Permission is sought for retention for the use of the ground floor of the existing building as a coffee shop and permission for a balcony for outdoor seating. The existing structure is two-storey over basement structure with parking at basement level. The ground floor level is being used as a coffee shop and is the area subject to retention. The coffee shop has a floor area of 198sqm. The balcony area is located on the northern elevation of the building and has an area of 12.45sqm. The balcony is to be constructed with a concrete base and metal railings with a set of metal stairs down to the basement parking area.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission granted subject to 7 conditions. The conditions are standard in nature.

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

3.2.1. HSE (22/08/16): No objection.

3.2.2. Transportation Planning (21/09/16): No objection subject to condition.

3.2.3. Planning report (03/10/16): The proposed use was considered consistent with the zoning objective at this location and the signage proposed was considered acceptable. The principle of the proposed balcony was considered satisfactory in relation to visual amenity and in regards to the amenity of adjoining properties. A grant of permission was recommended subject to the conditions outlined above.

## 4.0 Planning History

4.1 No planning history.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The relevant Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned 'DC', District Centre, with a stated objective 'to protect, provide for and/or improve mixed use District Centre Facilities'.

## 6.0 The Appeal

### 6.1 Grounds of Appeal

6.1.1 A third party appeal has been lodged by Doyle Kent Planning & Architecture on behalf of Howley Hayes Architects, 19 Rock Hill, Blackrock, Co. Dublin. The grounds of appeal are as follows...

- The appellants' concerns relate to the provision of the balcony on the northern elevation of the existing structure. The appellants' offices are located on the floor above the coffee shop (first floor).
- The balcony is located on a structure that is prominent and visible from the seafront with concerns regarding the overall visual impact of the proposed balcony, which is not considered to be of sufficient quality and will also have shabby appearance over time due to the materials being used.

- The appellants raise concerns regarding noise and general disturbance caused by the location of the balcony relative to their offices on the first floor. It is noted that the windows on the northern elevation are important for ventilation and that the location of the balcony will cause significant disturbance from noise generated by patrons on the balcony and smoke getting into the building. It is noted that the appellants would have to keep windows on the northern elevation closed to prevent disturbance and such would impinge on their amenities.
- The appellants note that the HSE report recommended a condition that no such proposed smoking area should be positioned so that smoke can enter the building via doorways, windows, vents etc, however this condition was omitted by the Planning Authority in granting permission.
- It is noted that the drawings submitted indicates 3 car parking spaces in the undercroft area. It is noted that there are actually four spaces (two leased by the appellants and two by the occupiers of the coffee shop). It is noted that the existing car parking layout is constrained and that proposal entails the provision of new columns to support the balcony which will interfere with the existing parking arrangements and result in the loss of one car parking space. It is also noted that the proposed columns make access/egress more difficult.
- It is noted that the existing external fire escape is to be reconfigured to provide access to the balcony. And that such would allow public access to the car parking area and reduced security.
- The appellants note a discrepancy in the drawings concerning the projection of the balcony with it noted that if constructed as per the drawings it may project over third party lands and have an adverse visual impact.

## **6.2 Responses**

### **6.2.1 Response by John Spain Associates on behalf of the applicants, Ouled Ltd.**

- It is noted that the balcony will be partially visible from the surrounding area and is of a design and scale that would not be prominent or have a negative visual impact.

- It is noted that the design and scale of the balcony would have limited impact on architectural character of the existing structure and would be acceptable in regards to overall visual impact.
- It is noted that no windows are to be blocked up and a revised drawing has been submitted correcting the errant elevation drawing.
- It is noted that the activity associated with the balcony would not cause significant disturbance to the appellants with it noted the site is in town centre location with there already being a high level of background noise from the Dart and vehicular traffic and that such is a common element at such a location where there are active ground floor uses. It is noted that the level of table and chairs on the balcony will be small and noise levels would not be significant.
- In regards to smoking the applicant highlights the Public Health (Tobacco) Act 2004 that allows for smoking at such outdoor locations and that the proposed balcony would comply with regulations for smoking areas. It is noted that the applicant would accept condition to the effect of having no such proposed smoking area positioned so that smoke can enter the building via doorways and windows if considered necessary. It is noted that the applicant will take all necessary steps to ensure no nuisance to neighbouring occupiers.
- In regards to the car parking area the applicant has submitted revised plans with the balcony supported by three columns instead of 4 as originally proposed and therefore having no impact on the parking layout.
- It is noted that the proposal provides no public access to the coffee shop from Bath Place with access only from Rock Hill. It is noted that the stairs will only be used in the event of an emergency and the applicant is willing to use signage to emphasises this if required.
- The applicants confirm that the balcony is wholly within the appeal site and does not project over third party lands.

#### 6.2.2 Response from Dun Laoghaire Rathdown County Council.

- The Planning Authority note that the grounds of appeal raised no new matters that would justify a change in attitude towards the proposed development.

### 6.2.3 Response by the appellants Howley Hayes Architects.

- The appellants note that the proximity and location of the balcony would give rise to disturbance through noise.
- It is noted that the appellants are reliant on opening the windows for ventilation.
- The appellants reiterate the requirement of the EHO that no such smoking area shall be positioned so as smoke can enter the building via doorways, windows and vents.
- The appellants reiterate their concerns regarding security and the fire escape stairs.
- The appellants have suggested an alternative design that would feature canopy/roof area over the balcony that would mitigate the impact of noise and smoke.

## 7.0 **Assessment**

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

Principle of the proposed development

Visual amenity

Adjoining amenity

Car parking

Other issues

### 7.2 **Principle of the proposed development:**

7.2.1 The proposal is for retention of use of the ground floor portion of a building on Rock Hill as a coffee shop use and permission to add a balcony on the northern elevation (rear elevation). The site is zoned 'DC', District Centre, with a stated objective 'to protect, provide for and/or improve mixed use District Centre Facilities' under Dun Laoghaire Rathdown County Development Plan 2016-2022. The use proposed for retention is indicated as being 'permitted in principle' (Table 8.3.7) within this zoning. The proposed use for retention is an active use at ground floor level within a town centre and in this regard is acceptable. I am satisfied that the the principle of the proposed development is acceptable.

### 7.3 **Visual amenity:**

7.3.1 In regards to visual amenity the existing shop front and signage subject to retention are of an acceptable standard at this town centre location and would be satisfactory in the context of the visual amenities of the area. It is notable that the appellants raise concerns regarding the visual impact of the proposed balcony located on the northern elevation. The appellants note that the proposed balcony will be located at a prominent and highly visible location and is of low quality and would have an adverse impact on the visual amenities of the area.

7.3.2 The balcony area is located on the ground level of the structure relative to the ground levels on Rock Hill, where the building is a two-storey structure. On the northern elevation, the existing structure is a two-storey building over and undercroft car parking area with a small external area linked to the car parking projecting beyond the rear elevation. This area is significantly higher than the ground level to the north (existing car park) with a large concrete retaining wall down to the parking area below. As a result the proposed balcony area is located at a significant height above the ground level to the north with the existing structure and adjoining structures having a significant façade facing the seafront. Although the balcony area will be visible when viewed from the south and the seafront, I would consider that the overall proportions of the balcony to be acceptable and not out of scale or character with the existing structure. I would consider that the scale of the balcony to be modest in size relative to the facade it is located on and relatively simple in design. I do not consider that such would have an adverse impact on the architectural character of the existing structure, the local area or subsequently any adverse impact on the visual amenities of the area. In terms of quality/architectural merit I would note the structure is nothing exceptional in regards to its overall design/architectural, however it is a reasonable and acceptable standard of development.

#### **7.4 Adjoining amenity:**

7.4.1 The appellants raise concerns regarding the impact of the proposed balcony on their amenity. The appellants occupy the first floor office space above the coffee shop. Their offices occupy the entire floor and they have five windows serving office, and conference facilities on the northern elevation one floor above the proposed balcony area. The appellants concerns are that the use of the balcony area would generate noise and disturbance within the appellants' office space and that the appellants rely on opening the windows for ventilation purposes. The appellants are also concerned that smoke from the outdoor area would enter their premises due to the proximity of the balcony to the windows serving the office space.



7.4.2 I would consider that the proposal for an outdoor seating area on the northern elevation one floor below existing office space would not be out of character in a town centre location such as this. I would consider given the town centre location of the site that the nature of use proposed, and in particular the proposed outdoor seating would not impinge significantly on the amenities of the existing tenants on the floor above the coffee shop. I would consider that the issue of noise is not a significant consideration having regard to the fact the site is in busy and active town centre location. In regards to the issue of use of the rear for smoking I would note that the area is not highly enclosed due to its projecting nature and open aspect to the north and such will help any smoke generated disperse adequately. I am satisfied that the proposal provides for a satisfactory standard of development and would not be detrimental to the amenities of the adjoining uses including the office tenants on the floor above the proposed development.

## **7.5 Car parking:**

7.5.1 The appellants raised concerns that the support columns for the proposed balcony would impact on the level of existing car parking available in the undercroft area as well as impact turning movements within an already restricted parking layout. The proposal provides for four columns located to the north of the parking area to support the balcony. It is notable that the applicants have submitted revised plans that provide for three supporting columns for the balcony instead of four. I am satisfied that this alteration would ensure that the proposal would not interfere with the level of car parking available within the parking area or unduly restrict turning movements.

## **7.6 Other Issues:**

7.6.1 The appellants raised concerns regarding the potential that the balcony would overhang third party lands. The applicants have confirmed that the balcony is located totally within the appeal site and does not encroach on third party lands. I am satisfied that such is the case.

7.6.2 The appellants raised concerns regarding the potential for the access stairs to provide public access to the car parking area. I am satisfied that the stairs from the balcony are for the purposes of fire escape and there are already existing stairs at this location providing for such. I would consider that such are necessary and that the proposal poses no security risk. I would consider that the risk to security is low given that the premises is likely to be an active well supervised use. The applicants have proposed using signage to restrict access unless in the event of an emergency and such would be acceptable and sufficient in this case.

7.6.3 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 based on the following reason.

## **9.0 Reasons and Considerations**

Having regard to the existing pattern of development in the area including the established commercial use on the site and the immediately adjoining sites; the nature of the development proposed and its location within a town centre, it is considered that the proposed development subject to compliance with the conditions set out would not adversely impact on the amenities of the area, would not give rise to a traffic hazard or seriously injure the amenities or depreciate the value of properties in the vicinity of the site and 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 in accordance with the plans and particulars lodged with the application and received by the planning authority on

the 11<sup>th</sup> day of August 2016 and as subsequently revised and amended on the 30th day of November 2016, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The development shall be used solely for the purposes stated in the public notices and shall not be used for any commercial use without a prior grant of planning permission. In particular, the development shall not operate as a take away and hot food excluding beverages shall not be sold for consumption off the premises.

Reason: In the interests of clarity and in the interest of the safeguarding of residential amenities.

3. No amplified music shall be played outside of the confines of building.

Reason: In the interest of the safeguarding of adjoining amenities.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 as amended, no additional external signs or advertising material shall be erected unless the subject of a further grant of permission.

Reason: In the interest of visual amenity.

5. The construction of the development shall be managed in accordance with a Construction and Waste Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, hours of working, noise management measures and offsite disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

6. 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. The scheme shall include the provision of litter bins.

Reason: In the interest of visual amenity.

7. 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. The level of the contribution shall reflect the floor area and extent of development permitted. The contribution shall be paid prior to the commencement of development or in such phased payments the planning authority may facilitate. 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 the Board to determine the proper application of the Scheme.

Reason: It is a requirement 48 of the Planning and Development Act 2000 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.

---

Colin McBride  
Planning Inspector

25<sup>th</sup> January 2017