



## Development

## Retention of:

- Change of use of barn to craft and joinery workshop.
- Extension to original Barn (99.3 sq.m) for use as an established craft and joinery workshop.
- The use of stone farm building 'A' as a café and craft shop (65.5sq.m).
- The use of part of farm building 'B' as café kitchen (11.5sq.m) and joinery/craft teaching area (34.8sq.m).
- The continued use of external farm yard as outdoor seating area and exhibition area (370sq.m).
- Car parking for 30 cars (0.08ha).

## Planning permission for:

- Café toilet and lobby (7.4sq.m), staff toilet (3sq.m) and standalone toilet block and lobby (7.4sq.m).
- Upgrading existing vehicular entrance and new vehicular exit.

	<ul style="list-style-type: none"> <li>• New wastewater treatment plant and sand based proprietary percolation area.</li> </ul>
	and ancillary site works.
<b>Location</b>	Gerry Farrell Joinery, Mutton Lane, Rathfarnham, Dublin 16.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D17A/0469.
<b>Applicant</b>	Gerry Farrell.
<b>Type of Application</b>	Permission and Permission for Retention.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellants</b>	Sam and Ann-Marie Feeney.
<b>Observers</b>	Prof. Colin Graham and Selina Guinness.
<b>Date of Site Inspection</b>	12 <sup>th</sup> September 2018.
<b>Inspector</b>	Dáire McDevitt.

## 1.0 Site Location and Description

- 1.1 The application site is located on the western side of Mutton Lane, in a predominantly rural area of Rathfarnham north of the Tibbradden Mountain. c.2.5km southeast of Ballyboden and c.1.2km west of the M50. It is c.195m northwest of Larch Hill and opposite Tibbradden House, a protected structure.
- 1.2 The site, with a stated area of c.2.61hectares, includes Farrells Joinery/craft centre, The Hazel House and a petting farm. It consists of a collection of old buildings around a small yard that are in use as a craft workshop/school, craft shop and a café. There is a joinery operating from a former barn that has been extended to the rear of the main buildings. There are two timber cabins on site that are used ancillary to the main uses (staff canteen and children's party area). There is an outdoor seating area, mobile pizza oven and smoker. A carpark occupies the northeastern portion of the site with a children's playground to the west of the carpark. The site includes a field to the rear that has 220kv lines traversing it. Blueberry Lodge is located in the northeastern corner of the site. It is one of a pair of semi-detached lodges along the western side of Mutton Lane
- 1.3 Bounding the site to the north is an agricultural access lane and a number of houses, including the appellant's house. Mutton Lane serves to access the Larch Hill International Scout Centre located to the southeast of the site.

## 2.0 Proposed Development

Retention of:

1. Extension to original Barn (99.3 sq.m) for use as an established craft and joinery workshop.
2. The use of stone farm building 'A' as a café and craft shop (65.5sq.m).
3. The use of part of farm building 'B' as café kitchen (11.5sq.m) and joinery/craft teaching area (34.8sq.m).

4. The continued use of external farm yard as outdoor seating area and exhibition area (370sq.m).

5. Car parking for 30 cars (0.08ha).

Planning permission for:

6. Café toilet and lobby (7.4sq.m), staff toilet (3sq.m) and standalone toilet block and lobby (7.4sq.m).

7. Upgrading existing vehicular entrance and new vehicular exit.

8. New wastewater treatment plant and sand based proprietary percolation area.

and ancillary site works.

The application included the following documentation:

- Appropriate Assessment Screening Report for a proposed wastewater treatment system and retention of buildings at Hazel House Café, Blackberry Lodge, Mutton Lane. (This refers to the application site).

The report concluded:

- There are no Natura 2000 sites located either within or directly adjacent to the site.
- There are no direct ecological links between the lands at Tibbradden and any of the Natura 2000 sites outlined in the report. It is unclear if the site is hydrologically linked to any of the sites via the field drains on site which would be expected to drain to the Owendoher River which is a tributary of the River Dodder. The river ultimately drains to the Natura 2000 sites in Dublin Bay. As negative impacts on these sites are highly unlikely by virtue of distance, the proposed development at Tibbradden will have no direct relevance to these protected sites.
- Given the nature of the project (retention of existing building extensions) and replacement of a poorly functioning wastewater treatment system with one constructed to EPA standards which will ultimately assist in relation to protection of water quality. It concluded that there will be no negative impacts on the qualifying interests or

species of any Natura 2000 site within a 15km radius of the proposed development at Tibbradden and a detailed (stage 2) appropriate assessment is not required.

- Wastewater Treatment System Report.
- Site Characterisation Report.
- Soil Infiltration Report.
- Background letter from the applicant outlining the history of the uses on site.
- Letters of support from groups, schools and organisations that use the services on offer.

#### **Further Information submission.**

This included:

- Revised proposal to include the retention of the established craft and joinery workshop (129.5sq.m).
- Details of all activities/events on site, hours of operation, staff and visitor numbers etc.
- Revised vehicular access arrangements.
- Traffic Impact Assessment.
- Speed Survey.
- Drainage Report.
- Clarification that the proposal would not cater for coaches. Parking provided on site for cars/ mini vans only.
- Public Lighting proposals.
- Details relating to the interception of surface water runoff.
- Elevation drawings of the proposed front boundary showing the removal of a section of the stone wall to facilitate a new entrance and the lowering of the wall at either side of the proposed entrance to facilitate the required sightlines.

- Letters of support from groups that use the facilities on site and the potential donkey sanctuary.
- Revised public notices.

### **Clarification of Further Information submission**

- Revised drawing showing 31m sightlines to the south and 39m sightlines to the north in accordance with DMURS requirements.
- Proposal to move the utility pole.
- The proposed entrance widened to 6m.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Grant permission subject to 21 standard conditions:

Of note are the following conditions:

**No. 4:**

*The hours of operation of the permitted uses shall be restricted to the following hours*

- |                           |  |
|---------------------------|--|
| a) Joinery                | (8.30am to 6.00pm Mon-Fri).  |
| b) Woodwork classes       | (10.00am to 4.00pm (juniors).<br>(7.00pm to 9.00pm (seniors).                      |
| c) Café                   | (9.30am to 5.00pm (Mon/Tues/Wed/Thurs/Sat & Sun)).<br>(9.30am to 9.00pm Fri only). |
| d) Pizza and Wine Evening | (6.30pm to 9.00pm Fri only).   |
| e) Movie Night            | (6.00pm to 9.00pm 1 per month subject to booking).                                 |

**Reason:** *In the interest of protecting adjoining properties.*

**No. 5:**

*Any change of use in the nature of the café as described in the application shall be the subject of a further planning application.*

**Reason:** *In the interest of proper planning and sustainable development.*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports (18<sup>th</sup> July 2017, 19<sup>th</sup> January 2018 and 14<sup>th</sup> March 2018)**

These reports formed the basis of the Planning Authority's decision and the main issues are summarised below:

- The principle of the development was considered acceptable and in compliance with the land use objective 'B' attached to the site.
- The majority of the works carried out on the site for retention are for a change of use. The majority of the buildings refer to old farm buildings, therefore, it was considered that the proposed works would not have a negative impact on the visual amenity of the area.
- The retention of the extension to the original barn and its use as an established craft/joinery workshop was considered acceptable. Its scale and design was considered acceptable and would not have a negative visual impact.
- The proposed structures are minor in nature and would not have a negative impact on the visual amenity of the area.
- Concerns were raised with the amount of activities occurring on site and further information was recommended in order to understand the intensity of the existing uses. Revised proposals required to regularise the use of the craft and joinery workshop operating on site since 2006.

The application was the subject of an extensive further information request relating to:

- Revised proposals to include the retention of the craft and joinery workshop in the application.
- Details of all activities/events on site, hours of operation, staff, visitor numbers. etc.

- Vehicular access arrangements.
- Traffic Impact Assessment.
- Speed Survey.
- Consent from relevant landowners for works on third party lands.
- Coach/mini bus parking.
- Public Lighting.
- Interception of surface water runoff.
- Elevation drawings of the proposed front boundary

A further Clarification of Further Information issued relating to sightlines, movement of a utility pole and public lighting within the site. This was addressed to the satisfaction of the Planning Authority and a recommendation to grant permission and permission for retention issued.

There is no Appropriate Assessment Screening Report on file. There is no reference to appropriate assessment in the reports prepared by the Area Planner.

### **3.2.2. Other Technical Reports**

**Transportation Planning Division (6<sup>th</sup> July 2017)**, Further information recommended requiring: Traffic Impact Assessment, Speed Survey, relevant consents from third parties to carry out the required works to the entrance, traffic management signage, coach/mini bus parking, public lighting.

Following the submission of Further Information, the Transportation Planning Division (**19<sup>th</sup> January 2018**) recommended Clarification of Further Information in relation to sightlines and letter of consent from the relevant utility company to move a utility pole.

The Clarification of Further Information addressed the concerns of the Transportation Planning Division, report dated **6<sup>th</sup> March 2018** noted no objection to the proposal subject to conditions.



**Drainage Planning Division (5<sup>th</sup> July 2017).** No objection subject to conditions. It was noted that in the event of a further information request, details relating to the interception of surface water runoff should be requested.

**EHO (21 June 2017).** No objection subject to conditions.

### **3.3. Prescribed Bodies**

#### **Inland Fisheries Ireland (not dated).**

- The proposed development is located in the catchment of the Owendoher River main channel, and also a tributary of the Dodder. The Owendoher is the most important nursery and recruitment tributary in the Dodder system. The Dodder system is exceptional among most urban river systems in the area in supporting Atlantic Salmon and Sea Trout in addition to resident Brown Trout. The presence of these fish populations highlights the sensitivity of the Owendoher River and the Dodder catchment in general. Thus it is vital to note that salmonid water constraints apply to any development in this area.
- It is essential that the receiving foul and water infrastructure has adequate capacity to accept predicted volumes from this development with no negative repercussions for quality of treatment, final effluent quality and the quality of receiving waters.
- All discharges must be in compliance with the European Communities (Surface Water) Regulations 2009 and the European Communities (Groundwater) Regulations 2010.

### **3.4. Third Party Observations**

The Area Planner in their report referred to 15 submissions, this included the submission from Inland Fisheries Ireland referred to in section 3.3 above.

14 submissions were received by the Planning Authority and 12 following the submission of the further information. These included submission by the appellants and observers. The issues raised are broadly in line with the

grounds of appeal and those raised in the observation and shall be dealt with in more detail in the relevant sections of this report. A brief summary of the issues raised in the submissions to the Planning Authority are set out below:

- The principle of the development is not acceptable at this location, it contravenes the land use zoning objective 'B' which seeks to protect and improve rural amenity and to provide for the development of agriculture.
- There is extensive planning enforcement history associated with the site.
- The applicant has not demonstrated a need or context for the commercial aspects of Hazel House.
- Noise nuisance.
- The café is really a restaurant, wine is sold and open until midnight.
- The development does not serve the local area, website advertises services that are used people from across Dublin.
- Inadequate sightlines at the proposed entrance.
- No traffic and transport appraisal has been carried out.
- There is significant damage to Mutton Lane from the increased traffic associated with the site.
- Proposed use would jeopardise the adjoining family farm enterprise at Tibbradden Farm due to increased traffic and conflict with pedestrians/livestock using the lane.
- Existing farm access route may be compromised.
- The proposed Wastewater treatment system is too close to adjoining wells.
- Detrimental impact on Tibbradden House, a Protected Structure.
- Loss of hedgerow along the front.
- Would set an undesirable precedent.
- The further information did not address the concerns raised in the original submissions.

## 4.0 Planning History

There are two Planning Enforcement files (**Enf 131/16 and Enf 132/16**) relating to the site.

On the western portion of the application site (field to the rear), Gerry Whelan was refused permission in 2007 (**PA Ref. No. D07A/0626**) for a two storey gate lodge and alterations to front gate along Tibbradden Lane. The reasons for related to 1) no specific wastewater treatment assessment was submitted and 2) the applicants had not demonstrated a need for a rural house at this location.

The appellants and observers referenced the following applications in their submissions:

**PA Ref. No. D06A/0340** refers to an application for the relocation of Mount Venus Nursery from Stocking Lane to the walled garden at Tibbradden House and on the opposite side of Mutton Lane.

**South Dublin County Council:**

**PA Ref. No. SD07A/0733 (An Bord Pleanala Ref. No. PL. 06S.228324)** refers to a refusal for permission for a house along Tibbradden Lane on the grounds of non-compliance with the Councils rural housing policy and inadequate sightlines.

## 5.0 Policy Context

### 5.1. Dun Laoghaire Rathdown County Council 2016-2022

**Land Use Zoning Objective:**

- The site is located on lands under Lan Use Objective '**B**' *To protect and improve rural amenity and to provide for the development of agriculture.*
- **Craft Centre/Craft Shop** and **Tea Room/Café** are 'open for consideration' under this zoning objective as set out in **table 8.3.5**.
- **Section 8.3.5** notes that uses which are not indicated as 'permitted in principle' or 'open for consideration' **will not be permitted**.

- **Section 8.3.7** refers to other uses not specifically mentioned in the use tables and that these will be considered on a **case-by-case basis** in relation to the general policies of the Plan and the zoning objectives for the area in question.

#### **Section 8.3.12. Definition of Use Classes:**

##### ***Craft Centre/Craft Shop***

*A building or part thereof typically having one or more workshops, an exhibition gallery and a shop.*

##### ***Team Room/Café***

*A building or part thereof used as a small café serving tea and light refreshments.*

**Section 8.2.3.7 refers to rural non-residential development.** Sets out that any application for non-residential development within the rural area will be dealt with on a case-by-case basis and will be assessed having regard to the following criteria: Compliance with land use zoning, the need for such a use in a rural area, the suitability of the site in accordance with section 8.2.3.6(i), the potential negative effects of the development on the rural amenity, access and potential impacts on the existing road network, compliance with EPA Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (1999) and the requirements of the EHO.

**Section 8.2.3.6(i)** refers to the suitability of the site for rural development. The criteria for assessing the suitability of a site ranges from visual impact, no other adverse impact on the environment, adequacy of the infrastructure to serve the development, protection of residential amenities where appropriate, etc.

#### **Appendix 7 Landscape Character Areas.**

##### **The site is located within LCA 1. Kilmashogue Valley.**

*This enclosure is bounded by the M50 motorway to the north, Glendoo to the south, Tibbradden Mountain to the West and Kilmashogue to the east. Because this is an area of high relief, the boundaries are actually landform features.*

*The upper reaches of this enclosure – i.e. the upper valley between Tibbradden Lane and Kilmashogue Lane is almost completely hidden from the view of the rest of the enclosure and indeed the outside world. This portion of the enclosure retains its rural feel with planned older hedges retained in the main.*

*Further down valley again, the field pattern becomes larger, the development more concentrated and the features of a large urban settlement in the form of pylons and the M50 motorway begin to impinge on the landscape.*

**Sensitivity/Strategy:** *Buildings – the rural character of the built fabric of the valley shall be maintained along with the avoidance of suburbanisation. Any permitted development shall be vernacular in design, mass and scale and in accordance with the policies of the Development Plan*

**The Observers have referred to policy LHB5**, this refers to Historical Landscape Character Areas (HLCA). Five HLCAs have been carried out for the County. The application site is not located within one of these areas.

## **5.2. Guidelines**

### **Project Ireland 2040. National Planning Framework (2018)**

**Section 5.3** refers to planning for the future growth and development of rural areas.

**Section 5.4** refers to planning and investment to support rural job creation.

**National Policy Objective 21** Enhance the competitiveness of rural areas by supporting innovation in rural economic development and enterprise through the diversification of the rural economy into new sectors and services, including ICT-based industries and those addressing climate change and sustainability.

**Treatment Systems for Small Communities, Business, Leisure Centres and Hotels.** EPA Wastewater Treatment Manuals. (1999).

### 5.3. Natural Heritage Designations

There are no designated sites within the immediate vicinity of the site. There following sites are within 15km of the site:

Wicklow Mountains SAC (site code 002122) c.1.8km to the south.

Wicklow Mountains SPA (site code 004040) c.2km to the south.

Glenasmole Valley SAC (site code 001209) c.5.2km to the west.

Knockbrack Wood SAC (site code 000725) c.6.9km to the southeast.

South Dublin Bay SAC (site code 000210) c.8.7km to the northeast (downstream).

South Dublin Bay/Tolka Estuary SPA (site code 004024) c.9km to the northeast (downstream).

Ballyman Glen SAC (site code 000713) c.9.8km to the southeast.

North Bull Island SPA (site code 004006) c.12.2km to the northeast.

Dalkey Islands SPA (site code 004172) c.13.2km to the east.

Rockabill to Dalkey Islands SAC (site code 003000) c.13.3km to the east.

North Dublin Bay SAC (site code 000206) c.13.7km to the northeast.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A third party appeal has been lodged by Sam & Ann-Marie Feeney, Mutton Lane, Rathfarnham, Dublin 16 (adjoining property to the north).

#### **Unauthorised Development**

- Extensive unauthorised development on site (uses, structures, removal of roadside verge) that are the subject of planning enforcement proceedings.
- Non-compliance with Enforcement Notice.

#### **Principle of Development**

- The development is not a rural based activity and contravenes the land use zoning objective 'B'.
- The scale of the combined uses/activities on site together with the retention application amount to a development that is inconsistent with the land use zoning objective B to support rural amenity as the development is a destination retail and café service that caters for the nearby urban population.
- Kilmashogue Valley needs to be protected from unsuitable development, listed as a Landscape Character Area (Appendix 7). Policy LHB5 recommends that due regard is had to the Historic Landscape Character Assessment, especially in areas under urban pressure (rural fringe).
- Health and Safety concerns arising from having a joinery bedside a cafe and teaching areas used by children and vulnerable groups.
- The applicant has not demonstrated how his business contributes to the rural community of Tibbradden. He does not live on site, therefore it cannot be considered a 'home based economic activity.'
- The unregulated and unauthorised growth of Hazel House over the years contravenes the land use zoning.

### **Traffic**

- The development would constitute a traffic hazard as a result of the intensification of traffic movements along a substandard rural road.
- The TIA and Speed survey is disputed. The time of the surveys (August) and the time of day has resulted in misleading results.
- The Speed Survey is not accepted as it counted traffic slowing down to enter the application site.
- Inadequate sightlines at the proposed entrance would constitute a traffic hazard.
- The Planning Authority is inconsistent in applying standards for the required sightlines. Reference to South Dublin County Council **PA Ref. No. SD07A/0733 (An Bord Pleanála Ref. No. PL.06S.228324)** where

the removal of the stone wall along Tibbradden Lane was not considered acceptable as it was deemed 'an unacceptable erosion of the rural character of the area. And **PA Ref. No. 06A/0340** (Mt Venus Nursery) located c. 100m from the site, where sightlines of 70m were required and parking was limited to 7 spaces.

- The works to the roadside boundary to facilitate a new entrance would lead to the erosion of the rural character of the area.

### **Public Health**

- The notices are invalid as since the lodging of the application the effluent treatment system has been installed, therefore it should be included in the list of retention application.
- Contamination of adjoining water supplies.

### **Noise/Light**

- Noise and light pollution.
- Negative impact on the amenities of adjoining properties

The basic services of roads, water and sewerage are wholly inadequate to support the intensive use of the site.

Request that permission is refused as the roads, water and sewerage infrastructure is not adequate to cater for the level of development. In the event that the Board grants permission, the following is requested:

Refuse permission for:

- The use of Building 'A' as a café.
- The part use of building 'B; as a café kitchen.
- The continued use of the external farmyard area as an outdoor seating area.
- The café toilet and lobby and the standalone toilet block.
- The upgrading of the existing vehicular entrance and the new vehicular entrance.



- The wastewater treatment plant.
- The car park should be limited to a maximum of 7 cars and no buses/mini buses parking.

Grant permission for:

- The retention of the barn and its extension for use as a craft and joinery workshop (hours of operation 9 to 5pm).
- The use of part of building 'B' as a joinery/craft teaching area.
- The use of the external yard as an exhibition area.
- *The applicant shall install a public water main to the specification of Irish Water from the junction of Cloraghs Cross to the site. This water main shall be taken in charge by Irish Water immediately and all properties which have had water supplies compromised should be connected at their gate as part of the works. The **cafe** cannot be used until such time as this public water supply connection is installed and the Environmental Health Officer has inspected and passed the water supply connection. The applicant may offset the capital costs of this works against contributions required by the Planning Authority.*

## 6.2. Applicant Response

This is mainly in the form of a rebuttal, Points of note are:

- The existing activities have evolved since 2006 and as a consequence of one activity requiring another. For example the café evolved from providing students to the joinery classes with light refreshments.
- The buildings are for the most part historical buildings on the site with some small additional small timber structures. The development integrates with the rural setting and does not detract from or erode the rural character of the area.
- The development provides a rural amenity, used by hillwalkers, families, local groups and schools.

- It caters for 30 car spaces to include mini vans. The applicant does not intend to accommodate large coaches on the site.
- The TIA and Speed Survey were accepted by the Planning Authority, The data relates to the site and is not relevant to sites and developments outside the site.
- The Public Notices were agreed with the Planning Authority, no work has commenced on the new wastewater treatment system.
- Test carried out on water quality concluded that there was no risk to public health.
- Opening hours are set out in the Planning Authority's conditions. The applicant accepts this condition.
- It is noted that the appellants have requested that if permission is granted that a condition be attached that the applicant provides a water mains from Cloragh's Cross which would enable other properties to connect to the mains. This is considered unreasonable.

### **6.3. Planning Authority Response**

Is summarised as follows:

- The issue of the contaminated water is addressed by way of condition and is also a matter for Irish Water and the EHO.
- It is considered that a number of conditions have been attached to the grant of permission restricting the hours of operation and any change of use to the nature of the café would require a further permission.
- A report from the Transportation Division dated 6<sup>th</sup> March 2018 raised no further objection to the proposed development and retention of permission subject to conditions.
- Drawing No. 003 indicated the site lighting layout which includes the relocation of an existing utility pole, due to sightline issues, subject to approval by the utility company. It is considered that the proposed

alterations would not have a significant impact on the rural character of the area.

#### **6.4. Observations**

An observation was received from Prof. Colin Graham and Selina Guinness, Tibbradden, Mutton Lane, Rathfarnham, Dublin 16. The main points are summarised below:

- Support the appeal lodged by Sam and Ann Marie Feeney.
- The Planning Authority did not give adequate consideration to the submissions on file and issues raised in them.

#### **Principle of Development**

- The cumulative intensification of uses on this site contravenes the definition of what is permitted in principle under land use zoning objective 'B'. The combined activities on this one site threaten the viability of the principle zoning objective – agriculture- at this location, through the generation of suburbanized volumes of traffic and disruption.
- The site, located in the foothills of the Dublin Mountains, is an isolated rural area where the landscape character is visually sensitive. The area around Mutton Lane retains its predominantly agricultural character and the proposal would detract from this.
- Kilmashogue Valley needs to be protected from unsuitable development. Policy LHB5 recommends that due regard is had to the Historic Landscape Character Assessment, especially in areas under urban pressure (rural fringe).
- In particular there is a need to avoid suburbanisation. Hazel House does not serve the local community, instead draws custom, by car, from the greater Dublin area.
- The development does not comply section 8.2.3.6 (i) regarding suitability of sites for rural development.

- The unregulated and unauthorised growth of Hazel House over the years contravenes the land use zoning.
- The applicant has not demonstrated how his business contributes to the rural community of Tibradden.
- The applicant does not live on site, therefore the development is not an ancillary use or a home based economic activity.
- The development is not a tea room, its level of activity is much higher.
- The café is the main use (traffic wise) and not ancillary to the craft/joinery workshop.
- Reference to Hazel House website and level of activities available on site.
- Hours of operation and serving of alcohol does not fall within the definition of 'tea rooms'

### **Traffic**

- The works to the roadside boundary will detract from the character of the area.
- An Bord Pleanála has refused permission for development along Tibradden Road on the grounds of unacceptable erosion of the rural character of the area. **PA Ref. No. SD07A/0733 (ABP Ref. No. PL. 06D.228324).**
- The removal of the 18<sup>th</sup> century masonry wall will have a detrimental impact on this landscape.
- The uses have a negative impact on farming activities at Tibradden Farm. The high intensity of uses is incompatible with adjoining farming.
- Traffic hazard due to intensification of traffic along Mutton Lane.
- Traffic Report is considered deficient in terms of location of speed camera, time of day and month survey was carried out.
- Inadequate sightlines at the entrance.

- Reference to Mount Venus Nursery (PA Ref. No. 06A/0340 where sightlines of 70m were required. The Planning Authority is inconsistent in their approach to sightlines.

Health and Safety concerns arising from having a joinery bedside a cafe and teaching areas used by children and vulnerable groups.

The basic services of roads, water and sewerage are wholly inadequate to support the intensive use of the site.

The observation mirrors the grounds of appeal in listing out the elements that should be granted permission and those that should be refused. Please refer to the grounds of appeal for the list. The following wording for a condition differs slightly from the appellants one.

*'The applicant shall install a public water main to the specification of Irish Water from the junction of Cloragh Road and Mutton Lane to the site. This water main shall be taken in charge by Irish Water immediately and all properties which have had water supplies compromised should be connected at their gate as part of the works. The **craft shop** cannot be used until such time as this public water supply connection is installed and the Environmental Health Officer has inspected and passed the water supply connection and the function of treatment plan. The applicant may offset the capital costs of this works against contributions required by the Planning Authority'.*

## 7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment and environmental impact assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of the Development.
- Traffic.
- Public Health.

- Noise and Light Pollution.
- Appropriate Assessment.
- Environmental Impact Assessment.

## **7.1. Principle of the Development.**

- 7.1.1.** The application relates to the retention of a joinery/craft workshop, a craft shop, a café, a craft/teaching area, outdoor seating, exhibition area and carpark. The crafts on site relate to woodwork and leather. The applicant purchased the site in 2004 and has stated that the joinery has been operating since 2006. Permission is also sought for toilets/lobby, installation of a new wastewater treatment plant and new vehicular entrance off Mutton Lane.
- 7.1.2.** The planning status and nature of previous uses of the site has been raised by the appellants. Notwithstanding the status of the uses, the application before the Board must be assessed in the context of the policies and objectives for the site under the current Dun Laoghaire Rathdown County Development Plan 2016-2022.
- 7.1.3.** Under the Dun Laoghaire-Rathdown County Development Plan 2016 – 2022, the site is located on lands zoned under land use objective B “*To protect and improve rural amenity and to provide for the development of agriculture*”. Craft Centre/Craft Shop and Tea Room/Café are listed in table 8.3.5 as uses ‘open for consideration’ under this zoning objective. Section 8.3.5 notes that uses which are not indicated as ‘permitted in principle’ or ‘open for consideration’ will not be permitted. I have examined the land use zoning objectives in the current County Development Plan and I note that Joineries are not included under any of the land use zoning objectives. In the absence of any reference to the proposed use, I consider that Section 8.3.5 of the Development Plan which refers to the consideration of other uses, not included in the land use table, on a case by case basis as set out in section 5.1 of this report should apply.

**7.1.4.** The appellants have set out in detail in the appeal that the proposed development would materially contravene the land use zoning objective attached to the site as the development does not relate to a rural based cottage industry and the café is mislabelled as it refers to a restaurant. The applicant in his appeal rebuts this and is of the view the uses to be retained grew organically from the main use on site, the joinery, and comply with the land use objective 'B' attached to the site.

**7.1.5.** I am satisfied that the uses to be retained (craft centre, craft shop and café) are open for consideration under land use zoning objective 'B' attached to the site. In my view, the joinery and craft workshop are intrinsically linked and are an integral part of the craft centre on site. I consider, therefore, subject to compliance with the relevant development management standards and national guidance the principle of the development is considered acceptable.

**7.1.6** I note that the plans and particulars submitted have mislabelled some of the rooms and refer to 'temporary display model of log type garden buildings.' These should refer to a cabin in use as a staff canteen and another one used for hosting private lunches and children's parties. I am satisfied that this matter can be deal with by condition in the event the Board grants permission.

**7.1.7** The application predominantly refers to change of use of existing structures, therefore the visual impact is limited and contained within the original arrangement of old buildings on site. The visual impact is established by these structures. I consider the incremental impact of the new structures and carpark on site is minimal and does not detract from the character of the Kilmashogue Valley.

## **7.2. Traffic.**

**7.2.1** The subject site is located on Mutton Lane, a rural cul-de-sac off the R116. Mutton Lane refers to the northern section and Tibbradden Lane to the southern

section of the lane. A 6m wide entrance is proposed to access the existing carpark.

7.2.2 The appellant has set out the proposed entrance would constitute a traffic hazard as the required 70m cannot be achieved at the proposed entrance. The Planning Authority applied Design Manual for Urban Roads and Streets (DMURS) as the relevant guidance applicable for this site. I do not consider that DMURS is applicable to the subject site. DMURS is a guidance document primarily relating to the road safety and design of urban roads and streets. It is not considered that the subject site has such characteristics given it is a minor rural road primarily serving one off rural dwellings, agricultural landholdings and a Scout Centre. It is considered that the more relevant guidance document is the Design Manual for Roads and Bridges (DMRB). Under the guidance set out in DMURS a reduced sightline can be accepted where reduce speeds have been demonstrated. Under DMRB a 70 metre sightline is required, however reference is also made to sightlines being determined on a site specific basis subject to traffic safety.

7.2.3 The appellants and observers have set out that proposals to remove and lower sections of the existing stone wall is unacceptable erosion of the rural character of the area. Furthermore the proposed works would not result in adequate sightlines at the proposed entrance. They have referenced applications along Tibbradden Lane that have been refused permission on the grounds that the proposals would result in the erosion of the rural character of the area. Reference in particular is made to Mount Venus Nursery, c.100m from the site, where under **PA Ref. No. D06A/0340** sightlines of 70m were required and carparking was limited to 7 spaces. And to PA Ref. SD07A/0733 (ABP Ref. No. PL.06S.228324 for a house refused on the grounds of inadequate sightlines and the achievement of the required sightlines would result in the erosion of the rural landscape.

7.2.4 A review on site confirms that adequate sightlines can be achieved in either direction, sightlines to the south fall short of the 70m, however the proposed entrance is an improvement on the existing entrance in terms of available sightlines. Furthermore, the characteristics of the existing road condition must



be considered, ie a single carriageway country lane. The TIA submitted by the applicant concluded that the trip generation from the development has no net effect on the surrounding road infrastructures. The traffic growth forecast has no net effect on the surrounding road infrastructure. The road network surrounding the development is expected to operate within capacity. A Speed Survey was conducted and found that average speed of vehicles along Mutton Lane to be 34km/h and recommended sightlines of 33m. The Report concluded that the scale and size of the development is too small to have any traffic or transport impact on the surrounding network.

7.2.5 The TIA and Speed Survey have been disputed by the appellants and observers. No TIA or Speed surveys have been carried out by the appellants or the observers to support their assertions. Based on the information on file there is no evidence to dispute the findings of the TIA or the Speed Survey.

7.2.6 There was no objection to the proposed development by the Transportation Planning Division of Dun Laoghaire Rathdown County Council. I consider having regard to the location of the site and the prevailing pattern of development in the area, that the entrance would be acceptable having regard to the low traffic levels in the road and the implementation of an appropriate traffic management plan, it is not considered that the proposed development would give rise to an unacceptable traffic hazard. In the event of a grant of permission, this entrance should be condition not to be used by customers/visitors to the site to address any potential conflict between pedestrians and vehicles within the site. I consider that any outstanding matters relating to traffic management can be dealt with by condition.

7.2.7 The current proposal includes for 29 cars (2 of which are for mobility impaired) and 2 bus spaces (8x3m). At the time of inspection I observed 18 cars/jeeps parked on site, 4 of which were parked haphazardly in the courtyard to the front/side of the café. If the Board considers granting permission, a condition should be attached to omit any parking from this area and parking should be confined the designated car park.

7.2.8 The appellants and observers also raised concerns that visual impact of a large car park on site would further erode the rural landscape. I note that the area is

currently in use as a carpark, it is screened from Mutton Lane by an existing stone wall and I consider, notwithstanding that this would be lowered to c.1m in height, that the impact is acceptable. The impact of the carpark can be further limited through the use of appropriate surface materials and landscaping, this can be dealt with by condition.

7.2.9 I, therefore, consider that the development is acceptable in terms of traffic and that the appeal on these grounds should not be upheld.

### **7.3. Public Health.**

7.3.1 The grounds of appeal raised concerns that the proposed effluent treatment system had already been installed and that the application should be for retention and not permission. This was rebutted by the applicant who clarified that the new treatment plant had not been installed.

7.3.2 The applicant includes proposals to replace an existing septic tank with a new proprietary wastewater treatment plant and a sand based proprietary percolation area. The Site Characterisation Report submitted with the application concluded that the existing septic tank's limited percolation area is likely to give poor treatment and disposal of the wastewater particularly during high usage.

7.3.3 A Soil Infiltration Test was carried out. This concluded that the subsoil, clay, is a typical of poor draining soil. The water table settled at 1.0m bgl (below ground level) but there was evidence of mottling at about 0.5 bgl, suggesting the water comes to this level in wet conditions in the winter. The report concluded that based on poor soakage and the high watertable, this site is not suitable for installation of soakaways.

7.3.4 Site Characterisation Report: t-value of 70 and p-value of 49. A wastewater treatment system and sand polishing filter is proposed to be installed in accordance with the EPA standards. The Drainage Section assessed the proposal in light of the EPA Wastewater Treatment Manual 'Treatment Systems for Small Communities, Businesses, Leisure Centres and Hotels.' And noted no objection subject to conditions. The Environmental Health Officer (EHO) has no objection to the proposal on the grounds of public health.

- 7.3.5 The appellants have set out that scientific tests carried out concluded that there has been severe downgrading of water quality in the ground water aquifer feeding into their well since the treatment plant was installed. They acknowledged that it is not known whether the treatment plant is directly responsible for the deterioration, however, the appellants have set out that there have not been any other activities in the immediate area which would explain the increase in coliforms and e-coli readings.
- 7.3.6 The applicant in his response has rebutted this and submitted results carried out on their water source. It was noted that there is a high water table on the lands and a spring and water source has developed on lands above the applicants. This surface water flows in the direction of the appellants lands. This surface water has been tested and found to contain E coli 6/c/u/100ml and Clostridium 2/c/u/100 ml (test results submitted with the response). The applicants have been advised that there is no microbiological contamination in any of the wells based on the test results for the Applicant's well or the Appellants.
- 7.3.7 The EHO did not raise concerns regarding potable water and contamination of adjoining wells in their report dated 21<sup>st</sup> June 2017. The matter was addressed to the satisfaction of the Council's Drainage Section. Given the available information on file, I consider that this matter can be addressed by condition if the Board considers granting permission.
- 7.3.8 In the event that the Board grants permission, the appellants and observers submitted details of the elements that should be granted retention and those that should be refused. These are set out in detail in section 6.1 and 6.4 of this report. This included that a condition that the applicant be required to install a public water main from the junction of Cloraghs Cross to the site and facilitate the connection of those whose water supply has been compromised. I consider the provision of a public water main along Mutton Lane is beyond the scope of this application.
- 7.3.9 I do not consider that a split decision is warranted. The uses to be retained are ancillary to and complement each other and comply with the Land Use zoning objective attached to the site. The overall development would not be prejudicial

to public health. Any outstanding concerns regarding public health can be addressed by the use of appropriate conditions.

#### **7.4. Noise and Light Pollution.**

7.4.1 The grounds of appeal have raised concerns that the use of street lights would change the rural character of the area. And that sound pollution is unpredictable and variable in intensity and as such would cause greater disturbance than predictable noise, no matter what decibel level is recorded.

7.4.2 The Planning Authority's condition relating to hours of operation and included a list of permitted hours for different activities and events. It would appear that the premise of this condition is to address the concerns of the appellants and observers relating to noise and residential amenity. I consider this condition to be overly onerous and beyond the scope of a planning condition which would have serious implications for the economic viability of the uses on site. In my opinion, the matter can be appropriately addressed by condition relating to noise monitoring and the uses of sensors if the Board considers granting permission. Operational phase noise as a result of the development can be dealt with by condition. Screening and the layout of the development would further reduce the noise on sensitive receptors.

7.4.3 The appellants highlighted the issue of light pollution from the development and the detrimental impact on their property. I am satisfied that the impact of the development can be substantially mitigated with additional screening along the northern boundary to address the impact on the properties to the north. The use of a lower level and low intensity lighting system which would protect the night time character of the area should be required by condition if the Board is of a mind to grant permission.

#### **7.5. Appropriate Assessment.**

7.5.1 The nearest designated sites are Wicklow Mountains SAC (site code 002122) c.1.8km to the south and Wicklow Mountains SPA (site code 004040) c.2km to the south. South Dublin Bay SAC (site code 000210) and South Dublin Bay/Tolka Estuary SPA (site code 004024) c.8.7km and 9km respectively to the northeast are of relevance as they are located downstream of the site.

- 7.5.2 An Appropriate Assessment Screening report was submitted with the application. This concluded that there are no direct ecological links between the lands at Tibbradden and any of the Natura 2000 sites outlined in the report. It is unclear if the site is hydrologically linked to any of the sites via the field drains on site which would be expected to drain to the Owendoher River which is a tributary of the River Dodder. The river ultimately drains to the Natura 2000 sites in Dublin Bay. As negative impacts on these sites are highly unlikely by virtue of distance, the proposed development at Tibbradden will have no direct relevance to these protected sites.
- 7.5.3 The Screening Report also concluded that given the nature of the project (retention of existing building extensions) and replacement of a poorly functioning wastewater treatment system with one constructed to EPA standards which will ultimately assist in relation to protection of water quality. It is concluded that there will be no negative impacts on the qualifying interests or species of any Natura 2000 site within a 15km radius of the proposed development at Tibbradden and a detailed (stage 2) appropriate assessment was not required.
- 7.5.4 There is no Appropriate Assessment Screening Report carried out by the Planning Authority on file. There is no reference to appropriate assessment in the reports prepared by the Area Planner.
- 7.5.5 Having regard to the nature, scale and location of the proposed development, the separation distance from the sites and the absences of linkages or pathways between the site and the Natura 2000 sites, I consider it is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development and development to be retained, individually or in combination with other plans or projects would not be likely to have a significant effect any European site and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **7.6. Environmental Impact Assessment.**

7.6.1 Having regard to the nature and scale of the development, which consists of retention of a change of use to a craft centre/craft shop/cafe, an extension to a joinery/workshop and a carpark and permission for a new wastewater treatment plant, new entrance and new toilets in a rural location, there is no reason to believe that there is a likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **8.0 Recommendation**

Permission and permission for retention should be granted for the reasons and considerations and subject to the conditions set out below:

## **9.0 Reasons and Considerations**

Having regard to the scale and nature of the proposed development and the development to be retained, the location of the development site and to the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022. It is considered that, subject to compliance with the conditions set out below, the proposed development and the development to be retained would comply with the land use zoning objective attached to the site, would not result in a traffic hazard, would not give rise to risk of water pollution or be detrimental to public health and would not detract from the amenities of the area. 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, as amended by plans and particulars received on the 19<sup>th</sup> day of December 2017 and on the 16<sup>th</sup> day of February 2018, 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. a) Permission refers only to the retention of the joinery and craft workshop, café, joinery/craft teaching area, craft shop, carpark and the retention of the extension to the joinery. Permission for the ancillary structures named in the public notices and the new wastewater treatment plant and ancillary site works and the opening of a new entrance and lowering of the boundary wall as per the details received by the Planning Authority on the 16<sup>th</sup> day of February 2018.
- b) Within 4 weeks of the final grant of permission the applicant shall submit for the written agreement of the Planning Authority revised floor plans that accurately reflect the layout and uses on site..
- c) This permission does not include the retention of the two timber sheds/cabins used as a staff canteen and seating area for parties, labelled on the drawings as 'temporary display model of timber log type garden building'.

**Reason:** In the interest of clarity.

3. a) All business and activities on site shall be operated by the applicant and shall be ancillary to each other. No unit or part of the development shall be sold or leased independently or otherwise disposed of independently of the main use on site.
- b) The craft shop permitted shall be used solely for retailing associated with the craft centre and joinery workshop on site.

**Reason:** In the interest of ordered development

4. No advertisement or advertisement structure, the exhibition or

erection of which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, shall be displayed or erected (on the building/within the curtilage of the site) without the agreement of the planning authority.

**Reason:** In the interest of visual amenity.

5. During the operational phase of the proposed development, the noise level from within the premises, measured at noise sensitive locations in the vicinity, shall not exceed -
  - (i) an LArT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Sunday (inclusive), and
  - (ii) an LAeqT value of 45 dB(A) at any other time.

**Reason:** To protect the amenities of properties in the vicinity of the site.

6.
  - (a) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at LAeq.T.
  - (b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedance criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.
  - (c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either



- (i) during a temporary shutdown of the specific noise source, or
- (ii) during a period immediately before or after the specific noise source operates.

(d) When measuring the specific noise, the time (T) shall be any five minute period during which the sound emission from the premises is at its maximum level.

(e) Any measuring instrument shall be precision grade.

Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority within 4 weeks of the final grant of permission. An acoustical analysis shall be included with this submission to the planning authority.

**Reason:** In order to protect the amenities of residential property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during night-time hours.

7. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, within four weeks of the final grant of permission and permission for retention. This scheme shall include the following:-
- (a) details of all proposed hard surface finishes, including samples of materials for paths and road surfaces within the development;
  - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
  - (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
  - (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of visual amenity.

8. a) Access proposals and parking for the development shall be provided in accordance with the plans and particulars submitted to the Planning Authority on the 19<sup>th</sup> Day of December 2017 and the 16<sup>th</sup> day of February 2018.
- b) The existing vehicular entrances to the site shall not be used for by visitors/customers to the development.
- c) No vehicles shall be parked outside the designated carpark.
- d) No deliveries shall be taken at or dispatched from the premises outside the hours of 08:00 and 17:00, Monday to Saturdays, nor at any time on Sundays or public holidays.

**Reason:** In the interest of pedestrian and traffic safety and of visual amenity.

9. Prior to the commencement of development, the developer shall submit and agree the following in writing with the Planning Authority:
  - (a) A traffic management plan for the operations.
  - (b) The material, content, design and location of metal advance warning signs which shall be erected on both sides of the entrance along the Mutton Lane. These signs shall be maintained in good and clean condition and removed on completion of the land reclamation works.

**Reason:** In the interest of traffic safety and convenience.

10. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Treatment Systems for Small Communities, Businesses, Leisure Centres and Hotels" Environmental Protection Agency, 1999. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the

planning authority.

- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first use and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Within three months of the final grant of permission, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

**Reason:** In the interest of public health

- 11. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

- 12. The water supply to serve the development shall have sufficient yield to serve the development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.

13. Within four weeks of the final grant of permission, the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

14. No goods, raw materials or waste products shall be placed or stored between the front of the building and the road.

**Reason:** In the interest of public health and the visual amenities of the area.

15. 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 commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

**Reason:** In the interest of visual amenity.

16. 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 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement 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.

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Dáire Mc Devitt  
Planning Inspector

8<sup>th</sup> November 2018