



An  
Bord  
Pleanála

## Inspector's Report ABP 301821 -18

---

<b>Development</b>	Retain single storey administration/office extension.
<b>Location</b>	The Dalkey Duck, Castle Street, Dalkey, County Dublin
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D17A/0988
<b>Applicant(s)</b>	Solly Whites
<b>Type of Application</b>	Permission to retain
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Deirdre Ni Raghallaigh
<b>Observer(s)</b>	Rachel & David Shanley
<b>Date of Site Inspection</b>	26 <sup>th</sup> August 2018
<b>Inspector</b>	Hugh Mannion

## 1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.1284ha and comprises the a two storey public house (the Dalkey Duck) and its backlands at Castle Street, Dalkey, County Dublin. There is a seating area to the front of the site accessible from Castle Street. There is a vehicular/pedestrian access along western boundary which provides access to parking spaces on the ground floor of Castlemews – a apartment block. This access also allows access to the rear of the public house. This rear area is now very largely given over to outside seating but a sign on the gate indicates that it was previously in use as a customer parking area.
- 1.2. The landuses along Castel Street are generally commercial. To the immediate west of the site is a two storey apartment block (Castlemews). To the immediate east is a two storey coffee shop, then a closed two storey greengrocer/fish/poultry shop that is followed by a single storey house. Beyond this house is a short (14 two storey townhouses) gated residential cul de sac “Termon”. The rear of units 8 to 14 in Termon back onto the application site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the retention of an office/administration building (53m<sup>2</sup>) and a bin store (18m<sup>2</sup>) to the rear of the Dalkey Duck Bar, Castle Street, Dalkey, County Dublin.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority granted permission subject to 10 conditions. Condition number 2 restricted the use of the administration/office building to the stated use and excludes use for the preparation or sale of food or beverages.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- 3.2.2. Initially the planning authority sought further information;
- Clarify the exact nature/function of the administration/office building.
  - Submit a site layout which shows the previous configuration of the rear of the site. A statement as to if permission was required for a change of use.
  - Drawings showing safe access for delivery/service vehicles.
  - Details of cycle spaces and staff sanitary facilities provided.
  - Additional lighting/ventilation/door access to the bin store.

Following submission of further information permission was granted.

3.2.3. Other Technical Reports:

**Transport Planning** requested details of vehicular movements for service and delivery vehicles, cycle parking and staff changing/drying/shower facilities.

**Waste Section** recommended additional details for bin store ventilation and lighting.

**Drainage Section** reported no objection subject to conditions.

## 4.0 Planning History

The planning history for the site is set out in the planner's report on file.

## 5.0 Policy Context

### 5.1. Development Plan

The site is zoned NC 'to protect provide for and/or improve neighbourhood centre facilities' on its northern end and A 'to protect and/or improve residential amenity' in the Dun Laoghaire County Development Plan 2016 to 2022.

### 5.2. Natural Heritage Designations

Not applicable.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- Unauthorised development has taken place to the rear of the pub including provision of a smoking/sitting out area/dining area on previous car parking for which permission has not been sought. The present application represents only a part of the works which have been carried out. The planning authority has been remiss in its handling of unauthorised development on site.
- The Board in previous cases has determined that a change of use to beer garden is not exempted development.
- The proposed building will not be used for its stated purpose but for the provision of food and drinks related to the smoking area on the former car parking.
- The new bin store will give to noise and odours and unreasonably impact on the residential amenity of Castlemews. It adjoins the boundary with 8 and 9 Castlemews and the back wall of 5 Dalkey Avenue. Storage of bins/beer kegs occurs on Castlemews laneway. Cars using this laneway are in danger of striking these barrels.
- The adjoining Castle Mews building is zones 'A' for the protection of residential amenity. The creation of a 'super pub' is contrary to the Dalkey ACA.
- The new pattern of deliveries and refuse management gives rise to traffic hazard.

### 6.2. Applicant Response

- The proposed development will not negatively impact on adjoining uses.
- The proposed uses of the office/administration building are as set out in the application.
- The proposed development will not give rise to noise/disturbance of neighbouring property.

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

No response

### 6.4. **Observations**

Rachel & David Shanley and Termon Management made the following observations.

- The bin store abuts the boundary wall with 5 Dalkey Avenue and over tops it is giving rise to noise, flies and general nuisance.
- The site accommodates an unauthorised beer garden. This has restricted the availability of on-site deliveries/refuse handling.
- The office proposed for retention abuts the properties on Termon Gardens. The building may be used in the future to serve drinks which will injure the amenity of Termon gardens.
- The air conditioning system give rise to noise and odours.
- The roof to the kitchen is used as a smoking/socialising area into the early hours.

### 6.5. **Further Responses**

No further responses.

## 7.0 **Assessment**

- 7.1. The appeal makes the related points that the application refers only an element of the works recently carried out on site and that structures the subject of the application may not be used for their stated purpose. It may be noted in this context that the planning authority has powers under Part VIII of the Act in relation to unauthorised development and that the Board, in this instance, is constrained to consider only the application the subject of the appeal.

- 7.2. The appeal/observation makes the point that part of the site is zoned to protect the residential amenity and that the bin store will negatively impact on the residential amenity of apartments in the Castlemews development and in Dalkey Avenue. The appeal is correct that the more southern element of the site is zoned A to protect residential amenity in the current Development Plan and it is reasonable that the amenity of the adjoining residential uses be protected. The bin store is constructed hard against the rear boundary wall of the Castlemews apartment building and the rear garden boundary wall of 5 Dalkey Avenue. The proposed development imposes the impacts arising from the additional seating areas to the front and rear of the site on adjoining residential uses which are entitled to some protection of their residential amenity by virtue of the residential zoning of the southern element of the site. I conclude that the bin store, by virtue of proximity to adjoining residential uses, will seriously injure the residential amenity of the adjoining residential uses and should be refused planning permission accordingly.
- 7.3. The appeal/observation makes the point that the admin/office building will negatively impact on the amenity of the houses in Termon. Houses 8 and 9 in Termon to the east share a boundary wall with the proposed admin/office building. The uses of this building are set out on the amended drawing submitted as further information (23<sup>rd</sup> April 2018). These uses may normally be expected of such a building and in terms of noise or general disturbance are not such as would be incompatible with residential amenity. Therefore I conclude that the retention of the building does not contravene the zoning objective for this element of the site and the adjoining property.
- 7.4. The appeal makes the point that beer keg deliveries and refuse management gives rise to congestion on the access lane shared by the public house and the garages associated with the adjoining Castlemews apartment building. There were no refuse/beer keg storage on the lane at the time of my site visit and it may be noted from the signage attached to the folding gate to this rear seating area that this rear area was once, at least partially, open to patrons of the public house as parking. I conclude therefore that the potential for congestion on this lane does not warrant refusal of permission for retention of the admin/office building. Furthermore, having regard to the reduction in traffic entering this rear area resulting from the provision of a seating out area I conclude that the proposed development has not increased traffic volumes in the area in a manner to give rise to traffic hazard.

## **7.5. Appropriate Assessment Screening**

7.6. Having regard to the modest scale of the proposed development and its location in a urban area where public piped services are available 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**

I recommend a split decision. I recommend granting permission for retention of the admin/office building for the reasons and considerations and subject to the conditions set out below and refusing permission for retention of the bin store for the reasons and considerations set out below.

## **9.0 Reasons and Considerations – Administration/office building.**

9.1. It is considered that the administration/office building is ancillary to the established public house use on site and, subject to compliance with the conditions set out below, that it would not give rise to noise or general disturbance in a manner to impact on the amenity of adjoining residential property or give rise to traffic hazard and would otherwise accord 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 the further plans and particulars submitted on the 23<sup>rd</sup> day of April 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. Water supply and drainage arrangements, including the attenuation and 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.

3. 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.

#### **Reasons and Considerations – Bin Store**

The bin store proposed for retention is located on the boundary with adjoining residential property which is zoned to protect and/or improve residential amenity in the Dun Laoghaire County Development Plan 2016 to 2022. It is considered that the bin store would give rise to noise and general disturbance in a manner to seriously injure the residential amenity of adjoining property and would, therefore materially contravene an objective set out in the County Development Plan and be contrary to the



proper planning and sustainable development of the area.

---

Hugh Mannion  
Senior Planning Inspector

13<sup>th</sup> September 2018