



An  
Bord  
Pleanála

## Inspector's Report ABP-302133-18

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<b>Development</b>	Change of use from existing retail unit to ground floor restaurant.
<b>Location</b>	Unit 1, Blackrock Shopping Centre, Blackrock, Co. Dublin.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D18A/0113
<b>Applicant(s)</b>	Moreabeza Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Chris Terry
<b>Observer(s)</b>	Vivienne Bradley Blackrock Business Network
<b>Date of Site Inspection</b>	12.10.2018
<b>Inspector</b>	Erika Casey

## 1.0 Site Location and Description

- 1.1. The subject site is located at Unit 1, Blackrock Shopping Centre in Blackrock. The unit is at ground floor level and is currently vacant. The unit fronts onto Rock Hill which is a continuation of Main Street. There are a number of comparison retail units in proximity to the unit as well as an estate agents. There is a large Starbucks Coffee Shop opposite the site. The Blackrock Shopping Centre is designated a district centre in the retail hierarchy of the County and accommodates a range of shops and retail services including a large convenience store anchor.
- 1.2. There is an existing laneway to the east of the unit that provides access to Brusna Cottages, a small residential enclave of single storey cottages. The cottages are located in a c.ACA.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the change of use of an existing retail unit with a stated area of 25.7 sq. metres to a restaurant unit to allow for the sale of hot food for the consumption off the premises and all associated works. The development also provides for new external signage which will be similar in size to the previous shopfront with the use of an existing overhead light for illumination.
- 2.2. The development will operate as a fast food outlet/takeaway and will accommodate a collection/order area, kitchen/service area and preparation and wash up area as well as a staff area and staff WC.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1 To grant permission subject to conditions. Conditions of note include:

**Condition 3:** The hours of operation shall be 11.30am-11pm Sunday to Thursday and 11.30 am-12am Friday to Saturday. Any change in the hours of operation shall be subject of a separate planning application.

**Reason:** In the interest of residential amenities.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports (27.03.2018 and 29.06.2018)

- A fast food outlet/takeaway is a non specified use in the current County Development Plan use tables, therefore, the proposal should be assessed on the basis of its compliance with the general policies of the Plan and the zoning objective for the lands. Given the site is located within an area zoned DC, the proposed use is considered to be a compatible use at this location and is acceptable in principle.
- The Planning Authority is satisfied that the proposed use will not result in a proliferation or oversupply of uses of this nature at this location.
- No new external services are being proposed on any elevation and all elevations will be maintained as existing with the exception of the proposed signage on the front elevation. Technical information submitted confirming that no ventilation ducting is required for the fryers. The Planning Authority is satisfied the development will not unreasonably compromise the residential amenities of properties to the south.
- The proposed signage is considered to be in keeping with the existing streetscape character and will not adversely impact on the visual amenities of the area. The proposal is considered to be in accordance with the current County Development Plan guidance regarding shopfronts, signage and advertising. Having regard to the proximity of the site to residential properties, it is considered reasonable that a condition be attached limiting the hours of operation.

#### 3.2.2. Other Technical Reports

**Drainage Planning (22.03.2018):** No objection.

**Transportation Planning (23.03.2018):** No objection subject to condition.

**Environmental Health Officer (12.03.2018):** No objection subject to condition.

### 3.3. Prescribed Bodies

- **Irish Water (22.03.2018):** No objection.

### 3.4. Third Party Observations

3.4.1 A number of observations were made by third parties on the application. Issues raised relate primarily to matters including: the over proliferation of units with a similar use, potential impacts on residential amenities from noise, odour, litter and antisocial behaviour, concerns regarding management and hours of operation and impacts on the cACA. The issues raised are largely the same as those made in the third party appeal and observations on the appeal and are outlined in further detail in sections 6.1 and 6.3 below.

### 4.0 Planning History

4.1 No recent relevant history.

### 5.0 Policy Context

#### 5.1. Development Plan

5.1.1 Under the Dun Laoghaire Rathdown County Development Plan 2016-2022, the site is zoned DC: *To protect, provide for and or improve mixed use district centre facilities*. Restaurant is permitted in principle under this zoning objective.

5.1.2 Section 8.2.6.5 sets out guidance regarding fast food outlets/takeaways. It notes that the following criteria will be taken account of in assessing such proposals:

- *The need to retain, protect and strengthen the retail mix, overall variety and multi-use function of the area.*
- *The adequacy of existing facilities for the sale of hot food for consumption off the premises in the locality. In this regard, the applicant shall submit details of all existing fast food/takeaway outlets within the locality.*
- *The cumulative effect of the proposed development on the amenities of the area, particularly so in predominantly residential zoned locales.*
- *The effect of the proposed development on the existing mix of land uses and activities in the area.*
- *Careful consideration of the location of fast food outlets in the vicinity of schools and parks.*

- *Location of vents and other external services and their impact on adjoining amenities in terms of noise/smell/visual impact.*

5.1.3 Section 8.2.6.8 of the plan sets out guidance regarding shopfronts, signage and advertising.

5.1.4 The subject site is also located in the administrative area of the Blackrock Local Area Plan 2015-2021. Under Policy BK22, it is the council policy *“to support the continued vitality and viability of Blackrock District Centre by facilitating a mix of uses and activities.”*

5.1.5 Guidance regarding shopfronts and signage is set out under section 7.8 of the plan.

## 5.2. Natural Heritage Designations

5.2.1 The nearest Natura 2000 site is the South Dublin Bay SAC and the South Dublin Bay and River Tolka Estuary SPA located c. 0.1km to the north east of the site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

#### **Chris Terry, 8 Brosna Cottages, Blackrock**

- The subject development comprises a takeaway. Having regard to the Further Information Submission made by the applicants, the adequacy of existing takeaway facilities has been proven. The cumulative impact of a further takeaway facility will have a detrimental effect to the amenities of Brusna Cottages. Note that out of 47 premises on Main Street, 21 are devoted to the food and drinks sector. There is no necessity for a further takeaway facility.
- The previous tenant of the unit was a boutique and, therefore, there were no smells associated with this use. Concerns regarding potential odour impact from the development referring to existing grilles on the laneway.
- Concerns regarding potential anti-social behaviour on the laneway from patrons of the takeaway, particularly in relation to noise and litter nuisance. The development will exacerbate existing problems and have a negative impact on property values in Brosna Cottages.

## 6.2. Applicant Response

- The nature of the application has been adequately described in the public notices, including its take away nature.
- The proposed development satisfies the DC zoning objective and improves the mixed use facilities in the Blackrock district. The unit has been vacant since 2016, and the proposed development will ensure a viable use and create job opportunities.
- A survey was carried out of similar facilities in Blackrock as well as within Stillorgan and Dun Laoghaire to determine if the proposed development would result in the over proliferation of fast food/takeaway outlets in the locality. This highlights that Blackrock, even though it has a greater population, has 12 takeaways. Dun Laoghaire and Stillorgan have 22 and 14 takeaways respectively. The other 12 listed establishments referred to by the appellant are café/cake shops and restaurants, none of which are similar in nature to the business proposed. There is scope for an additional facility of this nature, and it will strengthen the overall mix and variety within the area.
- The issue of ventilation and odour was addressed at Further Information stage. Advanced frying units, specifically designed to avoid the requirement for external air extraction will be installed. Notes that this is a revolutionary fryer used mainly in airports, forecourts and shopping centres, where ducting is not feasible and where there is a requirement for odourless food production.
- Extract ventilation for the toilet is required to comply with the Building Regulations. There are 4 vent cover grilles on the existing side alleyway elevation. Three of the smaller vent covers facilitate the air conditioning for the unit which already is in place. The larger vent is redundant and can facilitate the location of the small extraction fan required for the staff toilet. The extract fan will have minimal impact, if any, on Brusna Lane.
- Public toilets are available in Blackrock Shopping Centre. All waste facilities are located centrally within the shopping centre which the unit will have full access to. A waste management plan integrated within the main Blackrock Shopping Centre facilities along with periodical exterior clean up schedule will

ensure minimal disruption of litter will occur. Hours of operation are controlled by condition.

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

- It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

### 6.4. **Observations**

6.4.1 2 observations were submitted on the appeal by **Tom Feeney on behalf of Blackrock Business Network and Vivienne Bradley, 8-10 Rock Hill, Main Street, Blackrock**. Issues raised overlap and can be summarised as follows.

- Notes that the applicant has omitted to provide detail of a number of other fast food/takeaway outlets in the locality.
- The development will cause a serious reduction in residential amenity due to smell, noise, litter and antisocial behaviour and will have little positive amenity value, being yet another fast food takeaway outlet on the main street.
- The development will create an over supply of this type of outlet, would not be an addition to the existing mix of uses and would detract from the character and quality of the area.

## 7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of the appeal and observations and it is considered that no other substantive issues arise. Appropriate Assessment and EIA screening also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Impact on Residential Amenity
- Appropriate Assessment
- EIA Screening

## 7.2 Principle of Development

- 7.2.1 The proposed development comprises the change of use of an existing vacant retail units to a takeaway. The unit is located within the designated retail core under the Blackrock Local Area Plan 2015-2016 and has frontage to the main retail thoroughfare. Specific guidance is set out in the County Development Plan regarding takeaway units under section 8.2.6.5, noting in particular, that care needs to be taken to avoid an over proliferation of such units and the need to retain, protect and strengthen the overall retail mix and variety.
- 7.2.2 At further information stage the applicant submitted details of other similar fast food outlets in Blackrock, noting that there were 12 such facilities. A comparative study was also undertaken for the Stillorgan and Dun Laoghaire areas noting that having regard to the population of each centre, comparably Blackrock did not have an over proliferation of such units. This has been contested by the appellant and observers and asserted that there are in fact far more units that provide a food offering in the town.
- 7.2.3 On review of the submission made by the appellant and observers and from observations made during the site visit, it is evident that there are a number of premises in Blackrock that provide a food offering. I note however, that the variety, offer and opening hours of these units varies considerably, and that many of the units (as detailed in the submissions made by the observers) are coffee shops and delis that are not open in the evening time. In this context, I am satisfied that the information submitted by the applicant at Further Information stage is an accurate description of existing similar takeaway operations in Blackrock.
- 7.2.4 The unit proposed for the takeaway use is very limited in area, with a floor area of just 25 sq. metres. It is located to the north of the town centre on Rock Hill where there is not a high concentration of similar units. I note that the unit has been vacant for over 2 years and given its small floorplate, it may have limited appeal/suitability for retail use. I am satisfied that the change of use of the unit to a takeaway at this location would not result in an over proliferation or intensification of such uses in Blackrock Town Centre. It will ensure the use of a long vacant retail unit which overall will be a positive addition to the town and enhance the vitality and viability of the town centre.



### 7.3 Impact on Residential Amenity

- 7.3.1 Concerns have been raised that the proposed development will have a significant adverse impact on residential amenity, particularly to the existing residential enclave known as Brosna Cottage located to the south of the site. There is an existing laneway that runs along the south eastern boundary of the site that provides access to these dwellings. It is considered that the use of the unit as a takeaway will exacerbate existing anti social behaviour in the area and give rise to nuisance and disturbance from noise, litter, odour etc.
- 7.3.2 With regard to odour, this is an issue of particular concern to the appellant. This issue was addressed in detail at the Further Information Stage, with the applicant clarifying that it is proposed to use ventless fryers which negates the requirement for external air extraction. There are four existing grilles on the wall of the south eastern elevation fronting the laneway. These grilles serve the existing unit and it is proposed that they will continue to do so. They are of very limited scale. No new additional ducting or extraction systems are proposed. One of the grilles will serve an extractor fan for the proposed staff toilet.
- 7.3.3 Having regard to the detailed information submitted by the applicant on this matter, I am satisfied that the development will not give rise to adverse odour impacts. The proposed grille serving the WC will have limited use, given that it is serving only 1 toilet and it is located a considerable distance from the existing residential properties.
- 7.3.4 With regard to anti social behaviour, it is apparent from the submissions that this is a wider issue in the town centre. The development is located in a prime commercial area and, therefore, late night noise and activity is to be expected. Matters relating to antisocial behaviour are a policing matter and outside the scope of this assessment. I do not consider however, that the proposed unit will exacerbate antisocial behaviour. Hours of operation are conditioned to restrict late night opening and issues such as litter and waste management can be addressed by way of appropriate conditions. I am satisfied that no additional adverse impacts on residential amenity will arise. In fact the occupation of this long vacant unit is likely to improve passive surveillance and activity. I consider concerns regarding diminution of property values anecdotal and no evidence has been submitted in this regard.

## **7.4 Appropriate Assessment**

7.4.1 Having regard to the nature and scale of the proposed development, the change of use of an existing commercial unit within an established urban area, and the distance 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.

## **7.5 EIA Screening**

7.5.1 Having regard to nature of the development comprising the change of use of an existing commercial unit and the urban location of the site there is no real 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**

8.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

9.1. Having regard to the provisions of the current Dun Laoghaire Rathdown County Development Plan 2016-2022 and the Blackrock Local Area Plan 2015-2021, the location of the site within the defined core retail area under the LAP and to the nature, design and limited scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area nor result in an over proliferation of takeaway units in this area. The proposed development would 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 the further

plans and particulars submitted on the 8<sup>th</sup> day of June 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. The opening hours of the restaurant shall be restricted to closing not later than 24.00 hours Monday to Sunday. No ancillary food delivery or collection services shall operate from the premises after these closing times.

**Reason:** In the interest of orderly development.

3. (a) Details of signage on the proposed shopfront shall be as per the details submitted to the Planning Authority on the 8th day of June 2018  
(b) No roller shutters shall be erected on the exterior of the development.  
(c) No advertisements or signage of any kind shall be erected on the side elevation of the existing building.

**Reason:** To protect the visual amenities of the area.

4. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no further advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the building or within the curtilage of the site, unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area, and to allow the planning authority to assess any such further signage or advertisements through the statutory planning process.

5. 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.

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

6. A plan containing details for the management of waste/recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste/recyclable materials including waste oil and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

7. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

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**Erika Casey**

**Senior Planning Inspector**

**15th October 2018**