



An
Bord
Pleanála

Inspector's Report ABP 306042-19.

Development

Alterations to the layout of previously permitted development to include the repositioning within the site of a permitted single storey building to accommodate boat engine showroom, storage and workshop.

Location

West Pier Road, Dún Laoghaire, Co. Dublin.

Planning Authority

Dún Laoghaire-Rathdown Co. Council.

Planning Authority Reg. Ref.

D19A/0709

Applicant

POD Marine Ltd.

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal

First Party

Appellant

POD Marine Ltd.

Observers

None

Date of Site Inspection

19th of February 2020

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The site has a stated area of area 0.468 hectares. It is situated at the West Pier in Dún Laoghaire in an area which is known as the 'The Gut'. The area includes a mix of uses and buildings associated with the coastal location including the Irish National Sailing and Powerboat School, Irish Youth Sailing Club and Dún Laoghaire Motor Yacht Club.
- 1.2. The site is accessed from West Pier Road via the West Pier Road Accommodation Road and Harbour Road. The site is currently used for the outdoor storage of a number of small boats and yachts.
- 1.3. There are a number of motor sales and repairs businesses and a scrap yard located on the lands adjoining the appeal site to the west. The northern site boundary adjoins the seawall at the foreshore. The front of the site addresses West Pier Road it is defined by a wall and vehicular gated entrance. Opposite the site entrance there is a public car park. Salthill pumping station is situated to the south-west. There is public car park immediately to the west of the pumping station.

2.0 Proposed Development

- 2.1. Permission is sought for alterations to the layout of previously permitted development to include the repositioning within the site of a permitted single storey building to accommodate boat engine showroom, storage and workshop.
- 2.2. Building has a stated floor area of 345sq m and a ridge height of 5.88m.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason;

1. The proposed development would be premature pending road improvement works along West Pier Road/'West Harbour Access Road'. The intensification of future traffic generated during the construction (construction vehicles) and operational (customer traffic/deliveries/emergency vehicles) phases of the subject development would endanger public safety by reason of traffic hazard

and would have a seriously adverse impact on the carrying capacity of the 'West Harbour Access Road'. The proposed development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise and would also set an undesirable precedent at this location. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planning Authority concluded, notwithstanding the principle of development on site being permitted by the Board under ABP 304398-19 that the proposed development would be premature pending road improvement works along West Pier Road/West Harbour Access Road. They considered that the intensification of future traffic generated during the construction and operational phases would endanger public safety by reason of traffic hazard and would have a seriously adverse impact on the carrying capacity of the West Pier Road/West Harbour Access Road.

3.2.2. Other Technical Reports

3.2.3. Transportation Planning – Refusal recommended

3.2.4. Drainage Planning – No objection subject to conditions.

3.3. Third Party Observations

- 3.3.1. The Planning Authority did not receive any submissions/observations in relation to the application.

4.0 Planning History

PA Reg. Ref. D18A/1123 & ABP 304398-19 – Permission was granted by the Board for the retention of wall and signage and permission for construction of single storey building to accommodate boat engine showroom, storage and workshop at ground level and office space at mezzanine level.

5.0 Policy Context

5.1. Dun Laoghaire – Rathdown County Development Plan, 2016 – 2022.

- 5.1.1. The appeal site at West Pier Road, Dún Laoghaire as indicated on Map no. 3 of the Development Plan is zoned Objective ‘W’ ‘To provide for waterfront development and harbour related uses’.
- 5.1.2. There is an Objective on Map no. 3 to preserve the views from Dunleary Road to the south of the appeal site towards the site and Dublin Bay.
- 5.1.3. Table 2.2.6 refers to Long Term Road Objectives – Access to the ‘Gut’ (Dún Laoghaire Harbour Area)
- 5.1.4. There are 2 no. Specific Local Objectives relevant to the appeal site;
- Objective no. 14 – ‘to encourage the redevelopment of ‘The Gut’ adjacent to the West Pier to include improved access to the area’.
 - Objective no. 93 – ‘to promote the development of the S2S Promenade and Cycleway as a component part of the National East Coast Trail Cycle Route. It should be noted that these coastal routes will be subject to a feasibility study, including an assessment of the route options. Any development proposals shall be subject to Appropriate Assessment Screening in accordance with the requirements of the EU Habitats Directive to ensure the protection and preservation of all designated SACs, SPAs, and pNHAs in Dublin Bay and the surrounding area.’

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is located approximately 8.5m from South Dublin Bay SAC (000210) and approximately 100m South Dublin Bay and River Tolka Estuary SPA (0040240).

5.3. EIA Screening

- 5.3.1. Based on the information on the file, which I consider adequate to issue a screening determination, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was submitted by Kent Doyle Planning Partnership Ltd. on behalf of the applicant POD Marine Ltd. The issues raised can be summarised as follows;

- The current proposal is to modify the location and layout of the office/workshop building with consequent changes to the details of drainage etc.
- The Planning Authority refused permission on the basis that the proposed development would be premature pending road improvement works along West Pier Road/West Harbour Access Road, that the intensification of traffic generated by the proposed development would endanger public safety by reason of traffic hazard and that a grant of permission would set an undesirable precedent for further development at the location.
- Following the dissolving of the Dún Laoghaire Harbour Company the harbour was transferred in its entirety to Dún Laoghaire-Rathdown. It is highlighted in the appeal that there appears to be no definitive proposals to improve the access to the West Pier and the Gut in the foreseeable future.
- The decision of the Planning Authority would result in the former industrial site remaining unused. However, the planning permission granted by the Board on the site under ABP 304398-19 is substantially the same development as currently proposed.
- The current proposal seeks to provide a better configuration than the previously permitted development. It is submitted that the proposed changes are minor in nature.
- It is highlighted that the decision of the Planning Authority to refuse permission does not refer to any new considerations. The refusal represents a restatement of the previous refusal issued by the Planning Authority under Reg. Ref. D18A/1123 with the addition of the sentence which refers to prematurity.

- The Board in determining the appeal case ABP 304398-19 considered that having regard to its nature, scale and use and to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, that the proposed development would not endanger public safety by reason of traffic hazard or obstruction of road users or otherwise and would not set an undesirable precedent at this location.
- The Board did not agree with the recommendation of the Inspector to refuse permission for that appeal case and stated in the direction that “the Board was satisfied having regard to the limited nature and scale of the proposed development that it would not endanger public safety by reason of traffic hazard or obstruction of road users or otherwise and would not set an undesirable precedent at this location and would in fact contribute positively to the zoning objective Number 14 for the site.
- It is stated that the grounds of appeal submitted with the previously appeal ABP 304398-19 remain valid and a copy of these grounds of appeal have been appended with the current appeal along with a copy of the Traffic Assessment submitted with ABP 304398-19.
- In conclusion the first party submit that the proposed development represents a minor adjustment to a permitted marine-related re-sue of the brownfield site where there is a history of industrial use. The Planning Authority previously acknowledged that the principle of development was acceptable, however permission has been refused on the basis of access issues. It is highlighted that the Board previously rejected this approach in the grant of planning permission under ABP 304398-19. It is noted that the permitted development can proceed and that the current proposal represents a minor adjustment of that permitted development.
- It is therefore requested that the Board grant permission for this minor modification for the development which has already been permitted.

6.2. Planning Authority Response

- The reasoning on which the Planning Authority's decision was based as per the details, plans and particulars submitted with the application on the 25/09/19 are set out the planning report.
- The Planning Authority considers that the comprehensive planning report deals fully with the issues raised and justifies their decision.

7.0 Assessment

I consider that the main planning issues in the assessment of the proposed development can be dealt with under the following headings:

- Principle of the development and planning history
- Access and Traffic
- Appropriate Assessment

7.1. Principle of the development and planning history

- 7.1.1. The appeal site is zoned objective 'W' where the objective is 'To provide for waterfront development and harbour related uses'. The subject proposal refers to alterations to the layout of previously permitted development to include the repositioning within the site of a permitted the single storey building to accommodate boat engine showroom, storage and workshop. Accordingly, the use is related to a marine leisure facility which is permitted in principle under this zoning objective.
- 7.1.2. The site is also subject to a Specific Local Objective in the Development Plan. Specific Local Objective no. 14 states it is an objective 'to encourage the redevelopment of 'The Gut' adjacent to the West Pier to include improved access to the area'. The subject site is a brownfield location which is currently used for the outdoor storage of a number of small boats and yachts. The site was previously an industrial site. The subject proposal represents a scheme which would be in accordance with the provisions of Specific Local Objective no. 14.

- 7.1.3. In relation to the principle of the development the recent decision of the Board in respect of ABP 304398-19 is of particular relevance. Under ABP 304398-19 permission was granted for the development of a 345sq m single storey building to accommodate a boat engine showroom, storage area, workshop and office space at mezzanine level. The current proposal entails the development of single storey building of the same floor area and for the same purposes as that permitted under ABP 304398-19. The only clear difference relates to the location of the building on site. Under the current proposal it would be relocated on site circa 12m to the north-west and it would be set back by a further 25m. This I consider represents a relatively minor revision to the previously permitted layout.
- 7.1.4. Having regard to the single storey nature of the building with a ridge height of 5.88m, I am satisfied that the building in its proposed relocated position can be assimilated on site without any undue impact upon the existing visual amenities of the area including the views from Dunleary Road to the south of the appeal site towards the site and Dublin Bay.
- 7.1.5. Accordingly, having regard to the foregoing details, I consider that the principle of the subject development at this location has been established.

7.2. Access and Traffic

- 7.2.1. The Planning Authority refused permission on the basis that the development would be premature pending road improvement works along West Pier Road/'West Harbour Access Road'. They considered that the intensification of future traffic generated during the construction and operational phases of the development would endanger public safety by reason of traffic hazard and would have a seriously adverse impact on the carrying capacity of the 'West Harbour Access Road'.
- 7.2.2. In response to the matter it is highlighted in the appeal that the decision of the Planning Authority to refuse permission does not refer to any new considerations. It is noted that the current refusal of permission represents a restatement of the previous refusal of permission issued by the Planning Authority under Reg. Ref. D18A/1123 with the addition of the sentence which refers to prematurity.
- 7.2.3. The concerns of the Planning Authority solely relate to capacity of the existing vehicular network to accommodate the traffic which the proposal would generate during both the construction and operational phase.

- 7.2.4. The access to the site is from the Coast Road/Crofton Road then via Harbour Road and then West Pier Accommodation Road (West Harbour Access Road). The West Pier Accommodation Road extends for circa 250m and has a width of 3.6m. Given the restrict width of the roadway it can only accommodate a single vehicular movement in one direction. Therefore, a one-way shuttle system is in operation. Previously a signalised controlled junction operated at both ends of the road. This has been decommissioned and has been replaced by yield traffic signage which advises motorists to yield to oncoming traffic.
- 7.2.5. It is highlighted in the appeal that there appear to be no definitive proposals to improve the access to the West Pier and the Gut area in the foreseeable future. The matter of prematurity was referred to in the reason for refusal issued by the Planning Authority. I note that as set out in Table 2.2.6 of the Development Plan there is a long-term road objective in respect of the access to the 'Gut' (Dún Laoghaire Harbour Area). There is no timeframe in relation to this objective and therefore I would concur with the point raised in the appeal that at present there are no definitive proposals to improve access to the 'Gut' area.
- 7.2.6. The current appeal submission includes a copy of the previous appeal made under ABP 304398-19 and also the Traffic Assessment: Impact of proposed development on Harbour Road. I note that as detailed in these submissions that the level of construction activity to accommodate the proposed development will not be intense. Furthermore, I would note given the limited scale of the proposal a building of 345sq m that it is not lightly to generate a significant level of construction traffic.
- 7.2.7. Regarding the level of business related traffic movements generated by the proposed development this is projected as being modest with a maximum of ten customers per day and an average of one delivery per day. It was concluded in the Traffic Assessment that the probability of vehicles travelling in opposite directions encountering oncoming traffic on the one-way shuttle section of the West Pier Accommodation Road was 8%. Therefore, conflict and queuing which is currently light would continue to be minimal if the development were carried out.
- 7.2.8. There is no material or substantive change in respect of the current proposal and the appeal case which the Board adjudicated upon under ABP 304398-19 where they determined that having regard to the limited nature and scale of the proposed

development that the proposed development would not endanger public safety by reason of traffic hazard or obstruction of road users.

7.2.9. Accordingly, I would conclude having regard to its nature, scale and use and having assessed the relevant details on file that the level of traffic likely to be generated by the proposed development that it can be satisfactorily accommodated by the existing road network in the vicinity.

7.3. **Appropriate Assessment**

Stage 1 Screening

7.3.1. The appeal site is located approximately 8.5m from South Dublin Bay SAC (000210) and approximately 100m South Dublin Bay and River Tolka Estuary SPA (0040240).

7.3.2. The qualifying interests/special conservation interests of the designated sites, are summarised as follows:

South Dublin Bay SAC	South Dublin Bay & River Tolka Est. SPA
Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	Light-bellied Brent Goose [A046] Oystercatcher [A130] Ringed Plover [A137] Grey Plover [A141] Knot [A143] Sanderling [A144] Bar-tailed Godwit [A157] Redshank [A162] Dunlin [A149] Black-headed Gull [A179]

	Roseate Tern [A192] Common Tern [A193] Arctic Tern [A194] Wetlands & Waterbirds [A999]
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- 7.3.15. The Conservation Objectives for South Dublin Bay SAC (000210) are to maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in South Dublin Bay SAC. The Conservation Objectives for South Dublin Bay and River Tolka Estuary SPA (004024) are to maintain the favourable conservation condition of each qualifying bird species in the Natura 2000 site.
- 7.3.16. The subject site is a brownfield site which is fully serviced and the proposed attenuation measures would reduce the runoff from the site. There is no identified “source-pathway” to connect the appeal site with South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA or any other European Designated Site and there is no potential to have an effect on any Natura 2000 site.
- 7.3.17. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. (000210) and European Site No. (004024), or any other European site, in view of the site’s Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

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

9.0 Reasons and Considerations

9.1. Having regard to its nature, scale and use and to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022, and recent decision of the Board in respect of ABP 304398-19, whereby the principle of the subject development on site was accepted, the Board considered that, subject to compliance with the conditions as set out below, the proposed development would not endanger public safety by reason of traffic hazard or obstruction of road users or otherwise and would not set an undesirable precedent at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. 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.

4. Details of all signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

Siobhan Carroll
Planning Inspector

27th of February 2020