



An  
Bord  
Pleanála

## Inspector's Report ABP 306456-20.

### Development

Retention of development is sought for the change of use of an existing two-storey creche facility to café with enclosed part courtyard outdoor seated courtyard area to front and associated works.

### Location

13A Monkstown Crescent,  
Monkstown, Co. Dublin.

### Planning Authority

Dun Laoghaire-Rathdown Co. Council

### Planning Authority Reg. Ref.

D19A/0513

### Applicant

Avoca Handweavers

### Type of Application

Permission

### Planning Authority Decision

Grant permission

### Type of Appeal

Third Party

### Appellants

Longford Terrace Residents  
Association

### Observers

None

**Date of Site Inspection**

6/3/2020

**Inspector**

Siobhan Carroll

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## **1.0 Site Location and Description**

- 1.1. The appeal site is situated at Monkstown Crescent, Monkstown, Co. Dublin. Monkstown Crescent contains two rows of retail and commercial units along the northern side of the road between the junction at the centre of the village to the east and to Longford Place to the west. There is a mix of retail and commercial units including a newsagents, foodstore, cafes, restaurants, boutiques, household stores, garden centre and a funeral home.
- 1.2. There is a loading bay to the front of the building which facilitates deliveries and servicing of the units along this section of Monkstown Crescent. It is served by a surface car parking spaces along the southern side of Monkstown Crescent. The southern side of the road contains single storey terraced properties.
- 1.3. The adjoining property to the east of the site contains Avoca. The premises contains Avoca Food Market where there is a foodhall, deli and salad bar and bakery. Salt café adjoins the food market and both share access.
- 1.4. The subject site, which has a stated area of 0.0272 hectares contains a two-storey terrace building with a floor area of 149sq m. The building was extended to the front and rear. It was formally occupied by a creche. Currently the building is occupied by Avoca courtyard. The courtyard area contains an outdoor seating area with tables and outdoor heaters where patrons can sit and consume drinks and food. At the front of the building there is a serving hatch where coffees, hot drinks, pastries and ice cream are sold.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the retention for the change of use of an existing two-storey creche facility to café with enclosed part courtyard outdoor seated courtyard area to front and associated works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission was granted subject to 4 no. conditions.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

Further Information was sought in relation to the following;

1. There appears to be an association between the subject unit and the larger adjoining unit to the west no's 11a and 12a Monkstown Crescent. Clarify the following;
  - (a) If air handling units along the western side/boundary wall of the site bounding no's 11a and 12a serve the subject site/building, the adjoining units or both.
  - (b) If the ground mounted enclosure appearing to be a food waste bin in the rear yard serves the subject site/building, the adjoining units or both.
2. The extent of operations and use on the subject site are unclear, the applicant is requested to detail the following;
  - (a) The extent of the food offer on site; including handling/preparation areas, cold and/or hot foods; if for consumption on-site only or also for take-away.
  - (b) Details of any existing air handling units/extractor units, chimneys, vents etc associated with food handling/preparation for the subject unit/site. Submit a noise assessment in relation to any such additional extractor and air condition units. Submit details of mitigation measures of required to ensure that any existing units do not adversely impact the residential amenities of adjacent properties.
  - (c) Opening hours of the premises.
  - (d) Staff number with site and change of use.
  - (e) The level of association of the use/operation of the site and its facilities and eating area, with the adjoining units no's 11a and 12a.
  - Following the submission of the response to the further information request the Planning Authority were satisfied with the details provided and permission was granted.

### 3.2.2. Other Technical Reports

Conservation Planning – No objection to the retention of development.

Surface Water Drainage – No objection

Transportation Planning – No objection

E.H.O – No comment

### 3.3. **Prescribed Bodies**

Irish Water – No objection to the retention of development subject to the attachment of one note regarding grease removal units.

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

- 3.4.1. The Planning Authority received 14 no. submissions/observations in relation to the application. The main issues raised are similar to those set out on the third party appeal.

## 4.0 **Planning History**

There is an extensive planning history relating to the site and adjoining sites which is detailed in the report of the Planning Officer. The following are of relevance.

**PA Reg. Ref. 09A/0291/E (ABP file: PL06D.234290)** – Extension of duration of permission for change of use of a two-storey creche, to ground floor retail use and a first floor office use, construction of front and rear extensions and demolition of front and rear extensions. Condition no. 2 states; ‘The duration of permission is extended until 20/1/2020. The works shall therefore be completed by the 20<sup>th</sup> of January, 2020.

**PA Reg. Ref. D13A/0087** – Permission was granted for a single storey extension, with open yard and buggy store to the front of a two-storey creche. Demolition of single storey extensions to front and amendments to front boundary wall and entrance gates with elevation changes.

**PA Reg. Ref. D09A/0291 (ABP file: PL06D.234290)** – Permission was granted for change of use of a two-storey creche, to ground floor retail use and a first floor office use, construction of front and rear extensions and demolition of front and rear extensions.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The site is governed by the provisions of the Dún Laoghaire – Rathdown County Development Plan 2016-2022.

5.1.2. The site is identified as being Zoned Objective 'NC'- which seeks to 'protect, provide for and/or improve mixed-use neighbourhood centre facilities'.

- A café is a permissible use under this zoning objective
- Policy RET6 refers to Neighbourhood Centre

It is Council policy to encourage the provision of an appropriate mix, range and type of uses – including retail and retail services - in areas zoned objective 'NC' subject to the protection of the residential amenities of the surrounding area.

- Table 8.2.4 refers to Non Residential Land Use – Maximum Car Parking Standards

Cafes, Restaurants, Fast foods require – 1 space per 15sq m gross floor area

- The site is located within the attendant grounds of the adjacent Protected Structures to the north. The building is separated from the Protected Structures and in separate use.
- The site is located within the Monkstown Architectural Conservation Area (ACA)

### 5.2. Architectural Heritage Protection, Guidelines for Planning Authorities, DoEHLG, 2011

- Section 13.8 refers to Development affecting the Setting of a Protected Structure or an Architectural Conservation Area.
- A new development could also have an impact when it is detached from the Protected Structure and outside the curtilage and attendant grounds but visible in an important view of or from the Protected Structure. The extent of

the potential impact of proposals will depend in the location of the new works the character and quality of the Protected Structure its designated landscape and its setting and the character and quality of the Architectural Conservation Area.

### **5.3. Natural Heritage Designations**

5.3.1. None.

### **5.4. EIA Screening**

5.4.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A third party appeal was submitted by Architectural Consultants Limited on behalf of the Longford Terrace Residents Association. The issues raised are as follows;

- The first matter raised in the appeal refers to past failures to comply with planning permissions. The location of existing extraction systems and plant equipment serving the applicant's premises in the adjoining retail unit, café/restaurant is noted. It is questioned whether these systems and equipment have the benefit of planning permission.
- The report of the Planning Officer raised concern in respect of the visual impact of the existing air handling and extract units. Condition no. 2 of the permission granted by the Planning Authority specified "this permission relates solely to the change of use stated/illustrated associated changes and does not include any existing, or proposed wall mounted or roof located, air handling/vents for the unit or adjoining units and does not include any ground



mounted water storage/enclosures.” Therefore, the Planning Authority has concerns in relation to extraction on the site.

- It is requested that the Board refuse permission for the development for which retention permission is sought until such time as the permission for the plant equipment as a whole can be regularised.
- It is submitted that the application for an ancillary use must be assessed as an extension to the existing operation cannot be considered as a “stand alone project”. The application includes staff facilities which will be used by the staff of the adjoining premises.
- The external courtyard is described in the further information as “an overflow seating area” for the foodhall inside no. 12A. The existing external seating area to the front no. 12A is relatively small with one table. It is outlined in the application that the service point at no. 13A will serve teas, coffees and pastries. It is likely that customers purchasing hot food in the restaurant at no. 12 will be able to sit outside and consume the items at the courtyard at no. 13A. Therefore, this would result in an intensification of the restaurant use at no. 12.
- It is noted that the application does not seek retention for existing extraction at no. 12A. The issue of noise and odour impacts are raised.
- It is submitted that the development for which retention is sought contravenes the Core Strategy of the Dun Laoghaire-Rathdown Co. Development Plan 2016-2022.
- The site is zoned “NC” “To protect, provide for and/or improve mixed-use neighbourhood centre facilities.” While the definition of Neighbourhood Centre set out in Chapter 3 of the Development Plan does not refer to the role of restaurants or cafes in neighbourhood centres the importance of restaurants in District Centres and Major Town Centres is highlighted.
- The Development Plan refers to the importance of restaurant uses in the future development of the Major Town Centre at Dun Laoghaire. ARC Consultants carried out a survey of Monkstown (a Level 4 village) and other nearby town and village centres to provide a comparison of the extent of café

and restaurant provision. The survey found there were 12 no. restaurants in Monkstown. It is considered that the level of café/restaurant use in Monkstown places it in competition with centres up the hierarchy including the Major Town Centre at Dun Laoghaire.

- Monkstown Neighbourhood Centre is located 290m from the western extent of Dun Laoghaire Major Town Centre. Dun Laoghaire suffers from a lack of vibrancy and therefore an intensification of restaurant use in a Neighbourhood Centre in close proximity to it is not considered appropriate in this context.
- Furthermore, the proposed change of use removes the possibility of it being used for a different use and therefore potentially would undermine the capacity of Monkstown to provide a viable mix of local services.
- It is submitted that the proposed development will exacerbate existing problems with traffic hazard and traffic nuisance. The Monkstown Crescent area is considered to be dangerously over-parked. It is noted that none of the existing restaurants in Monkstown provide off-street parking. Inadequate parking for the concentration of cafes and restaurants regularly leads to illegal parking and queuing in the village.
- The level of parking, lack of parking enforcement and the narrow width of the road at Monkstown Crescent creates significant issues in terms of traffic hazard and safety for pedestrians and cyclists. It is submitted that that applicant must demonstrate that development will not result in negative traffic impacts, traffic hazard and traffic nuisance.
- It is considered that the existing drainage infrastructure is inadequate to cope with any further intensification of café/restaurant development in Monkstown Village.
- The application did not reference or assess the impact of the subject development which is located within the curtilage of the Protected Structure at No. 13 Longford Terrace. The existing building no. 13A Monkstown Crescent is considered to form part of the Protected Structure at no. 13 Longford Terrace (RPS No. 652).

- It is advised in the Architectural Heritage Protection Guidelines that “In making a decision as to the extent of the curtilage of a Protected Structure and the other structures within the curtilage, the Planning Authority should consider is or was there a functional connection between the structures. The existing building at No. 13A Monkstown Crescent served as a coach house for no. 13 Longford Terrace.
- It is submitted that the development for which retention permission is now sought could result in a permanent and negative impact on architectural heritage.
- It is respectfully requested that the Board refuse permission for the subject development until the impacts of the entire operation can be fully assessed and existing impacts due to noise, odour, visual intrusion and traffic, odour, visual intrusion and traffic are addressed.

## 6.2. Applicant Response

A response to the third party appeal was submitted by Thornton O'Connor Town Planning on behalf of the applicant Avoca Handweavers. The main issues raised are as follows;

- The planning history on the subject site is noted. Under Reg. Ref. D09A/0291 and ABP PL06D.234290 for change of use of existing two-storey creche to ground floor retail and first floor office use. The Inspector in their assessment of the proposal concerning heritage stated, “the observers to the appeal have raised extensive concerns relating to the conservation status of the building it is argued that as part of the attendant grounds of a Protected Structure the subject mews is a Protected Structure and therefore should be treated accordingly....I consider that a refusal on grounds that the development constituted a Protected Structure or is injurious to the amenities of the environment within their Conservation Area, would not be warranted.”
- In terms of residential amenity the Inspector considered “given (an imposed setback) from the rear boundary of c.3m the residential amenity of the houses to the rear on Longford Terrace should also not be unduly affected.

- The report of the Dun Laoghaire Rathdown Co. Council Planning Officer in relation to the subject application referred to intensification of use and stated, 'It is considered that the change of use and other proposals would not represent an overall intensification of use on the site. This is noting its planning and commercial use history.'
- In relation to the provision of plant the further information required clarification. The applicant clarified that no food is cooked or prepared at the site and that the wall mounted items are associated with adjoining sites.
- The recent decision of the Board in respect of no. 21 Monkstown Crescent under PA Reg. Ref. D19A/0247 and ABP 305448-19 where permission was granted for a change of use from a motor garage to restaurant and construction of a restaurant extension is cited as being very relevant to the issues raised in the third party appeal.
- The report of the Inspector for ABP 305448-19 is highlighted. In relation to the acceptability of an additional restaurant use at Monkstown the Inspector did not consider that an additional restaurant would undermine the local service function of Monkstown Village and that it would not detract from the range of uses on offer in the Neighbourhood centre and that the siting of cafes/restaurants within a village are left to market forces.
- Regarding the potential impact of the proposal upon Dun Laoghaire Major Town Centre the Inspector considered that they were not satisfied that the failing of one particular urban centre is necessarily attributable to the success of proposed development and to suggest that a development of the nature and scale proposed would be contrary to the core strategy or wider policy objectives of the Development Plan is misplaced.
- In relation to the relationship between the mews building to the curtilage of the Protected Structure the Inspector noted the precedence set by a number of decisions of the Board in relation to mews structures along the northern side of Monkstown Crescent. The opinion of Justice O'Brien in relation to the judicial review of an appeal referring to no. 6 Monkstown Crescent was highlighted. Justice O'Brien noted that the Board had not taken issue with the Planning Authority view that the mews buildings are not Protected Structures

and has previously held that the former mews structures along Monkstown Crescent should not be regarded as being within the curtilage of the Protected Structures along Longford Terrace.

- The Inspector in their report considered that the relationship of the existing mews building on Monkstown Crescent with no. 21 Longford Terrace has long been severed physically and in terms of use the site is under different ownership and functioning as a standalone property. Therefore, the Inspector was satisfied that the application site is not within the curtilage of a Protected Structure.
- In relation to the visual impact of plant the Inspector was unconvinced that visual impact arising from the presence of extraction equipment to the rear of the property would detract from the character or amenity of neighbouring protected structures.
- Regarding traffic and parking considerations the Inspector stated that the provision of on-site car parking was not feasible and having regard to the location of the site within an established neighbourhood centre, the regulation and enforcement of on-street parking facilities in the area and the availability of public transport that a refusal of permission on the basis of traffic congestion or additional parking demands generated by the proposed development would be unreasonable.
- It is argued in the appeal that permission should be refused due to the provision of plant on the adjacent building no. 11a and no. 12a Monkstown Crescent. The Planning Officer in their assessment of the proposal was not particularly concerned in relation to the extraction units and stated that the plant was 'relatively modest in size and relatively well separated from the shared boundary fence topped wall'.
- The Planning Authority attached the condition in relation to plant to clarify that the permission does not include the provision of plant. It is highlighted that as detailed on the plans and particulars submitted with the application no food is cooked or prepared at the subject site. The food is produced at the Avoca CPU in Bray and brought to the premises for sale each day.

- The appellants infer that plant may be erected at the subject property without the benefit of planning permission. In response to this it is confirmed that there is no need for plant as cooking and food preparation is carried out off site.
- The appeal refers to the relationship between the adjacent units at no's 11a and 12a Monkstown Crescent and the subject site. The appeal contends that the subject application is for ancillary restaurant and that it should be assessed as an extension to the adjacent Avoca foodhall and café.
- The first party clarify that the premises is intended to be a separate entity which would sell tea, coffees and pastries via a service point at no. 13a. It is separately branded as Avoca Courtyard. Therefore, it is not intended to be ancillary to the adjacent unit as it would operate separately with a different offering with outdoor casual eating in a courtyard setting.
- It is set out in the appeal that the level of café/restaurant use in Monkstown which is a Neighbourhood centre at level 4 of the hierarchy of centres, places it in competition with centres higher up the hierarchy including the Major Town Centre of Dun Laoghaire. The first party note that the matter was also raised in the appeal case ABP 305448-19 at no. 21 Monkstown Crescent. The first party concur with the conclusion of the Inspector in relation to the cited appeal when considering the same matter in relation to the current appeal.
- They submit that the appellants are misplaced in their inference that the restaurant development would not be aligned with the Core Strategy of the Development Plan and that the clustering of restaurants adds to the viability of a neighbourhood centre. Furthermore, it is submitted that the siting of café/restaurants within neighbourhood centres is left to market forces and it is not a function of the planning system to inhibit competition.
- The matter of car parking is raised in the appeal. The appellants have concerns that the proposed development does not provide car parking for visitors or staff and that it would create parking difficulties in the area and create a traffic hazard.
- The first party note that planning history of the site where under Reg. Ref. D09A/0291 and PL06D.24290 and extended under Reg. Ref. D09A/0291/E

permission was granted for a more intensive commercial use in an extended premises. The issue of car parking and traffic hazard was also raised in the appeal case ABP 305448-19 at no. 21 Monkstown Crescent where the Inspector concluded that given the site location in an established neighbourhood centre where the on-street parking is regulated and enforced and where public transport is available that a refusal of permission on basis of congestion or additional parking would be appropriate.

- The first party wish to highlight the limited scale of the site and that the on-site provision of car parking is not feasible and that the previous use of the site as a creche did not benefit from car parking. Also, the previously permitted use with retail and office use did not feature on-site parking. Furthermore, it is noted that the Transportation Department have no objection to the proposed development.
- The appeal raised concern that the proposed café/restaurant use of the premises would place a significant demand on the infrastructure services in the area. The first party note the reports from the Drainage Planning Department and also Irish Water which confirm that both consultees have no objections to the proposed development.
- Regarding potential impacts to Architectural Heritage it is set out in the appeal that no. 13a Monkstown Crescent forms part of the Protected Structure at no. 13 Longford Terrace and that it should be assessed as being within the curtilage of a Protected Structure.
- The appeal response referred to the matter in a previous section of the response where the assessment of the Inspector in respect of ABP 305448 was discussed.
- The first party submit that the issue of impact to Architectural heritage has been assessed on numerous occasions by the Planning Authority and the Board. The Board have clearly determined on each occasion that the premises at Monkstown Crescent are not considered to be within the curtilage of the Protected Structure to the rear.

- Therefore, the first party submit that it is clear that both the Planning Authority and the Board considered that the properties at Monkstown Crescent are not within the curtilage of a Protected Structure.
- In conclusion it is stated that the development of the Avoca Courtyard Café at no. 13A plays a key role in adding to the vitality and vibrancy of Monkstown Crescent. The use is appropriate for the designated Neighbourhood centre and complies fully with planning policy. The continued use of the premises as a café will ensure the proper planning and sustainable development of the area.

### **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.

## **7.0 Assessment**

The main issues in this appeal are those raised in the grounds of appeal submitted. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Development Plan policy
- Built Heritage
- Impact upon residential amenity
- Traffic
- Services
- Appropriate Assessment

### **7.1. Development Plan policy**

- 7.1.1. Permission is sought for the retention for the change of use of an existing two-storey creche facility to café with enclosed part courtyard outdoor seated courtyard area to front and associated works.



- 7.1.2. The site is located with an area with the zoning objective 'NC', which aims 'to protect, provide for and/or improve mixed-use neighbourhood centre facilities'. In accordance with Table 8.3.6 of the Development Plan a café/restaurant is permitted in principle within this zoning. Policy RET6 refers to Neighbourhood centres and seeks to encourage the provision of an appropriate mix, range and type of uses in Neighbourhood centres.
- 7.1.3. The appeal states that the concentration of cafes and restaurants in Monkstown is excessive and that it would impact on the mix of services available in the Neighbourhood centre.
- 7.1.4. The retail core of the village is located at the village centre at the junction of Monkstown Road and Monkstown Crescent and along Monkstown Crescent to the east. The Village is served by the traditional mix of retail, commercial and service uses. These include a Post Office, Public House, newsagents, fish mongers, pharmacy, florist, hair and beauty salon, convenience store, boutique, jewellers, food market, car sales, home furnishing store, garden centre and funeral home.
- 7.1.5. In terms of café/restaurant provision in Monkstown there are approximately 12 no. café/restaurants located within the neighbourhood centre. They include a mix of restaurants providing different world cuisines, bistros and premises which serve brunch/lunch along with night time dining. Accordingly, having regard to the extensive variety of existing commercial and retail uses within Monkstown Neighbourhood centre I am satisfied that while there is also an existing diverse café/restaurants offering the addition of the proposed café would be acceptable.
- 7.1.6. The appeal suggests that the proposal would be contrary to the retail hierarchy as the proposed café/restaurant would be detrimental to the vibrancy of the Major Town Centre at Dun Laoghaire. While I would note that the MTC of Dun Laoghaire has experienced some vacancy of commercial retail premises having regard to the limited scale of the proposal a café with an outdoor seating area of circa 60sq m, I do not consider that it is reasonable to conclude that it would unduly impact the MTC of Dun Laoghaire.
- 7.1.7. The first party in response to the matter submit that the appellants are misplaced in their inference that the restaurant development would not be aligned with the Core Strategy of the Development Plan and that the clustering of restaurants/cafes adds

to the viability of a neighbourhood centre. Furthermore, it is submitted that the siting of café/restaurants within neighbourhood centres is left to market forces and it is not a function of the planning system to inhibit competition.

- 7.1.8. Therefore, I am satisfied that the proposed development would be in accordance with the Neighbourhood Centre zoning objective and complies with the relevant Development Plan policies in particular Policy RET6.

## 7.2. **Built Heritage**

- 7.2.1. In relation to the relation to the subject mews building no. 13a Monkstown Crescent and the Protected Structure no. 13 Longford Terrace to the north, I note that the mews building is not located within the defined curtilage of the Protected Structure. This is the case with all the mew buildings along Monkstown Crescent. Section 13.8 of the Architectural Heritage Protection, Guidelines for Planning Authorities refers to development affecting the Setting of a Protected Structure or an Architectural Conservation Area. It advises that new development could have an impact when it is detached from a Protected Structure and outside the curtilage and attendant grounds but visible in an important view of or from the Protected Structure. It is further advised that the extent of potential impacts of proposals will depend on the location of the new works the character and quality of the Protected Structure and its setting.
- 7.2.2. The matter of the status of the mews properties along Monkstown Crescent in terms of the Protected Structures to the north is raised in the appeal. This issue has been considered on numerous previous occasions by the Planning Authority and the Board. I note the opinion of Justice O'Brien in respect of the Judicial review referring to the permission granted at no. 6A Monkstown Crescent which states, "in my view it is clear or at the very least it can be said that there are substantial grounds for contending that 6A Monkstown Crescent is a structure which attracts the status of being a 'protected structure' by virtue of the aforementioned definition of structures or protected 'structure' as set out in S.2 of the Act 2000." However, this opinion of Justice O'Brien was not accepted by the Planning Authority as the mew buildings along Monkstown Crescent were not subsequently included on the Record of Protected Structures.
- 7.2.3. The Board in determining a number of appeals referring to mews properties along Monkstown Crescent including PL06D.219291, PL06D.220628, PL06D.233343,

PL06D.234290, PL06D.246117 and ABP305448-19 held with the view of the Planning Authority that the mews buildings along Monkstown Crescent are not considered to be within the curtilage of the Protected Structures along Longford Terrace.

7.2.4. The two properties are separated by a boundary wall and are in separate ownership and separate use, however, there remains a historical relationship between the buildings. Having regard to these matters and the precedent established by previous decisions of the Board in respect of other mews properties at Monkstown Crescent, I am satisfied that the appeal site is not located within the curtilage of a protected structure. Furthermore, given that no new development or works are proposed to the rear of the site which adjoins the boundary with no. 13 Longford Terrace, I am satisfied that the subject proposal would not unduly impact neighbouring protected structure and the other surrounding protected structures at Longford Terrace.

7.2.5. The site is located within the Monkstown Architectural Conservation Area. The proposal involves the retention of clear polycarbonate mono-pitch roof to circa 29sq m of the courtyard seating area. The roof is supported by a timber frame. This is a very limited intervention to the front of the premises. Given the presence of the wall to the front of the courtyard the subject roof is not directly visible when viewed from the street along Monkstown Crescent. The external wall is painted a green/grey colour along with the painted signage of the business 'Avoca Courtyard'. The first floor external wall is also painted the same green/grey colour. I consider that the external finish integrates well with the character of the existing building and with that of the surrounding properties within the streetscape. Furthermore, I note that the Conservation Section of the Council has no objection to the proposal. Therefore, I am satisfied that the proposal will not detract from the character of the Architectural Conservation Area.

### **7.3. Impact on residential amenity**

7.3.1. The appellants contend that the proposed development would negatively impact upon the residential amenity of neighbouring properties at Longford Terrace by reason of noise and odour particularly having regard to the location of plant, extraction and ducts. The setback of the rear of the building from the closest neighbouring dwelling at no. 13 Longford Terrace is 28m. Therefore, a significant setback is provided

between the subject premises and the rear of the closest opposing dwelling. Concern was expressed in relation to noise and odour associated with the proposed use specifically in relation to the plant and extractor units.

7.3.2. The first party have confirmed that as detailed on the plans and particulars submitted with the application no food is cooked or prepared at the subject site. They confirmed that food is produced at the Avoca CPU in Bray and brought to the premises for sale each day. Therefore, the applicant states that there is no requirement for plant to the subject building because cooking and food preparation is carried out off site. Accordingly, I am satisfied that the proposal would not unduly impact the neighbouring residential properties to the north along Longford Terrace in terms of any potential odour or noise.

7.3.3. I note that submitted plans only provide for customer access to the courtyard to the front of the building. The appellants' properties are located at Longford Terrace which is situated to the rear of the premises. The submitted plans and documentation do not indicate any customer use or access to the rear of the building. However, to ensure no public access to the rear yard, I would recommend that attachment of a condition to address the matter, should the Board decide to grant permission.

7.3.4. Accordingly, in conclusion, I am satisfied that the proposal would not unduly impact on the residential amenity of the appellants' neighbouring properties and other neighbouring properties.

#### **7.4. Traffic and parking**

7.4.1. The grounds of appeal raises the matter car parking. The issue of existing traffic congestion experienced in the area is also raised. Monkstown Crescent and the surrounding roads are served by on-street paid parking. Furthermore, I note that the site is well served by public transport. Salthill Dart station is approximately five minute's walk from the site and the no. 7 and 7a bus routes operate along Monkstown Crescent.

7.4.2. Having regard to the limited site area, building design and layout and also the nature and configuration of the road, footpaths and on-street parking along Monkstown Crescent, I would concur with the first party that it would be neither feasible nor practical to provide on-site car parking. Furthermore, given the permitted previous

use of the building as a creche and the use which was previously granted permission under PA Reg. Ref. D09A/0291 & PL06D.234290) for change of use of creche to ground floor retail use and a first floor office use where no on-site car parking was provided, I do not consider that the provision of on-site car parking should be required. Therefore, having regard to the planning history on the site, the lack of on-site car parking is not a matter which would warrant a refusal of permission.

7.4.3. The grounds of appeal refer to matter of traffic generation and congestion. I note that there is a loading bay to the front of the site which ensures that deliveries and servicing of the premises can be carried out without any restriction to traffic movement along Monkstown Crescent. Having regard to the limited area of the proposed café which does not include any indoor seating and has an outdoor seating area of circa 60sq m I do not consider that it would result in an intensification of traffic movements above those generated by the previously permitted commercial and retail uses. Accordingly, having regard to the above details I do not consider the proposal would result in an intensification of traffic movements, therefore, this is not a matter which would warrant a refusal of permission in this instance.

7.4.4. Accordingly, I considered that the proposed development is acceptable in terms of traffic and car parking.

## 7.5. **Services**

7.5.1. It is set out in the appeal that the existing drainage infrastructure in Monkstown Village is inadequate to cope with any further intensification of café/restaurant development. The report from the Drainage Planning Department dated the 15<sup>th</sup> of August 2019 states that they have no objection to the proposal and they cite no requirements. The report from Irish Water dated the 16<sup>th</sup> of August 2019 stated that they had no objection to the proposed development. They recommended that a condition be attached to ensure that all effluent contain fats, oils and/or grease passes from the kitchen area through an appropriately sized grease removal unit before entry to the public sewer system. Should the Board decide to grant permission I would recommend that attachment of a condition to address the matter.

7.5.2. Accordingly, I am satisfied that the existing infrastructural services can adequately cater for the proposed development.

## **7.6. Appropriate Assessment**

- 7.6.1. The appeal site is not within or adjoining any Natura 2000 site. Having regard to the nature and scale of the proposed development, the location of the site in a serviced urban area and the separation 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.

## **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 the zoning provisions for the site as set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and to the nature and extent of the development proposed and to the pattern of land use in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not injure the viability and mix of uses in the area would not lead to an overconcentration of café/restaurant uses in the area, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not adversely affect the character of the Architectural Conservation Area or of the neighbouring Protected Structures and would be acceptable in terms of traffic safety and convenience. 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 the further plans and particulars submitted to the planning authority on the 22<sup>nd</sup> day of November 2019, 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 rear yard of the building shall not be accessible to the public.

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

3. This permission relates solely to the change of use and stated and illustrated changes. It does not include any existing or proposed wall-mounted, roof-located, air-handling/vents for the unit or adjoining units and does not include any ground mounted water storage units and enclosures.

**Reason:** In the interest of clarity and to ensure that the development shall be in accordance with the permission.

4. 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. A grease trap shall be fitted on the kitchen drain to the satisfaction of the planning authority.

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

5. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning

and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the buildings, unless authorised by a further grant of planning permission.

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

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Siobhan Carroll  
Planning Inspector

27<sup>th</sup> of April 2020