



An  
Bord  
Pleanála

## Inspector's Report 311424-21

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<b>Development</b>	Change of use from retail to coffee shop at ground floor & residential at 1 <sup>st</sup> & 2 <sup>nd</sup> floors (2 no. 2-bed duplex apartments), bin & bike store at ground floor level, associated site works & signage.
<b>Location</b>	Unit 3, Block K, The River Centre, Rathborne Place, Dublin 15.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3913/20
<b>Applicant(s)</b>	Wenqin Chen
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party v Decision
<b>Appellant(s)</b>	Brian and Patricia O'Higgins & Others
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	9 <sup>th</sup> August 2022

**Inspector**

Louise Treacy

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 118.5 m<sup>2</sup> and is located at Unit 3, Block K, The River Centre, Rathborne Place, Dublin 15. The existing building is a 3-storey commercial property, which forms part of a local neighbourhood centre of 2-3 storeys in height located on the northern side of Rathborne Place. The property was vacant at the time of the inspection. A caretaker storeroom, a switch room and an ESB substation adjoin the appeal site to the east. The adjoining land uses to the west within the neighbourhood centre include a medical centre, a launderette, a Spar shop, a gym and a crèche. A gated external passageway extends to the rear of the neighbourhood centre and is accessed to the rear / north-east of the subject site. This area is used for waste / bin storage. Parallel car parking is in place to the front of the neighbourhood centre.
- 1.2. The southern side of Rathborne Place is characterised by a block of 3-storey duplex units, adjoined at either end by 4-storey apartment blocks. The neighbouring development to the rear / north of the neighbourhood centre comprises 4-storey apartment blocks.

## 2.0 Proposed Development

- 2.1. The proposed development will consist of the change of use of all floors from retail to coffee shop use at ground floor level and residential use at 1<sup>st</sup> and 2<sup>nd</sup> floor level (2 no. 2-bedroom duplex apartments), with associated bin store and bike store at ground floor level, associated site works and signage.
- 2.2. The proposed ground floor level will accommodate a coffee shop (4 m<sup>2</sup>), a reception area (7.5 m<sup>2</sup>), a dry store (4.2 m<sup>2</sup>), a cold store (2.2 m<sup>2</sup>), an office (2.4 m<sup>2</sup>), a kitchen with counter area (8.9 m<sup>2</sup>), a WC (2.7 m<sup>2</sup>) and bin store (10.4 m<sup>2</sup>). A separate door access to the upper floor residential units is also proposed at ground floor level, with a bike and bin store to the rear. Access to the coffee shop bin store and the residential bike / bin store will also be available via the passageway which extends to the rear of the site.
- 2.3. The duplex units which are proposed at the 1<sup>st</sup> and 2<sup>nd</sup> floor levels have stated floor areas of 75.6 m<sup>2</sup> (unit no. 1) and 73.7 m<sup>2</sup> (unit no. 2). The bedroom accommodation

for each unit is proposed at 1<sup>st</sup> floor level, with the kitchen/dining/living room and bathrooms proposed at 2<sup>nd</sup> floor level. Each unit has a private balcony space of 9.1 m<sup>2</sup> to the front which is accessed via the living accommodation and fronts onto Rathborne Place.

- 2.4. Works are also proposed to the building façades to accommodate new entrance doors and glazing panels as appropriate, together with the proposed balconies serving the residential units at 2<sup>nd</sup> floor level.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Notification of the Decision to Grant Permission subject to 16 no. conditions issued on 23<sup>rd</sup> August 2021.
- 3.1.2. Condition no. 3 requires the payment of a Section 48 (2)(c) development contribution in the amount of €3,306 in respect of public infrastructure and facilities in the Pelletstown Development Area.
- 3.1.3. Condition no. 14 requires that no part of the approved coffee shop use shall be used for the sale of hot foot for consumption off the premises and that the internal layout of the coffee shop may be altered to increase the floor area dedicated to internal customer seating.
- 3.1.4. Condition no. 15 (a) requires that cycle parking shall be in situ prior to the occupation of the units, with a minimum of 4 no. bicycle parking spaces allocated to the residential units and a minimum of 2 no. spaces for the café use.
- 3.1.5. Condition no. 15 (b) requires that a maximum of 1 no. car parking space shall be allocated to the ground floor café use, with the remaining 4 no. spaces allocated to the residential use.
- 3.1.6. Condition no. 16 requires the developer to control odour emissions, including extract ducting and ventilation from the premises in accordance with measures to be submitted to and agreed in writing with the planning authority prior to the commencement of development.
- 3.1.7. All other conditions are generally standard in nature.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports (12<sup>th</sup> February 2021 and 8<sup>th</sup> July 2021)

3.2.2. Following their initial assessment of the application, Dublin City Council's Planning Officer recommended that **Further Information** be requested in relation to 2 no. items as summarised below.

(1) The applicant is requested to submit clarification as to the nature and extent of the proposed coffee shop use, having regard to the recent history of the refusal of planning permission for a restaurant with ancillary take-away at this location. The applicant shall indicate clearly on plans the area of the ground floor unit dedicated to indoor seating for dining; shall clarify whether deep fat frying will take place on the premises; and, whether a take-away or delivery service is proposed as part of the coffee shop.

(2) Concerns regarding existing traffic and parking congestion and nuisance parking (Further Information requested by the Transportation Planning Division as per report of 1<sup>st</sup> February 2021 refers).

3.2.3. The applicant submitted a response to the Request for Further Information on 11<sup>th</sup> June 2021 as summarised below:

3.2.4. **Item No. 1:** A floor area of 12.7 m<sup>2</sup> is dedicated for seating for indoor dining (Drawing No. 3.1.100 Rev. A refers). No operator has been identified at this stage but the option for deep frying should be allowed as well as an option for a take-away service for cold and hot food.

3.2.5. **Item No. 2 (a):** The basement car parking plan (Drawing No. 3.1009) indicates 5 car parking spaces have been allocated to the proposed development (1 no. each per apartment and 3 no. spaces for the coffee shop). The lands to the east of the site adjacent to the access to the rear servicing lane is a service space only, not to be used for car parking.

3.2.6. **Item No. 2(b):** It is anticipated that deliveries will be made on a daily basis early in the morning to avoid traffic congestion.

3.2.7. **Item No. 2 (c):** Seating capacity is provided for 6 no. customers. It is envisaged that the majority of customers would be passing trade for consumption off the premises.

- 3.2.8. **Item No. 2 (d):** It is anticipated that 5 no. kitchen staff and 6 no. front of house staff will be employed on a rota system.
- 3.2.9. **Item No. 2 (e):** The site is located in close proximity to the city centre and is served by Ashtown train station and Dublin Bus route 120. On foot of the foregoing, a zero-parking strategy for customers has been employed to encourage sustainable journeys. A controlled parking zone exists around the site and prevents any increase in pressure for space from non-permit holders.
- 3.2.10. **Item No. 2 (f):** Two cycle parking spaces have been provided for staff within the ground floor of the premises (Drawing No. 3.1.100 Rev. A refers). Two cycle parking spaces are also proposed for residents.
- 3.2.11. Following an assessment of the applicant's Further Information submission, Dublin City Council's Planning Officer considered that **Clarification of Further Information** was required in relation to the following:
- 3.2.12. **Item No. 1:** The applicant is requested to submit details of the current Rathborne Place parking management strategy including details on unauthorised parking management enforcement.
- 3.2.13. **Item No. 2:** The applicant is requested to clarify where the basement car parking is located in the context of the subject site and confirm if the proposed spaces are currently assigned to residential or commercial units elsewhere within the development.
- 3.2.14. **Item No. 3:** The applicant is advised that the proposed 3 no. car parking spaces for café use exceeds development plan standards and should be justified in light of stated good public transport links and proximity to the city centre.
- 3.2.15. **Item No. 4 (a):** The Planning Authority requires a minimum of 4 no. cycle parking spaces for the residential units and separate cycle parking for staff. Separate bicycle parking areas are required for the residential and commercial units for enhanced security.
- 3.2.16. **Item No. 4 (b):** The applicant is advised that dedicated cycle parking is required for customers.
- 3.2.17. The applicant submitted a response to the Request for Clarification of Further Information on 27<sup>th</sup> July 2021, which can be summarised as follows:

- 3.2.18. **Item No. 1:** The applicant has provided details of the parking management strategy. Parking is free on Rathborne Place, with a maximum stay of 2 hours, after which time cars are clamped. Signage is in place around the development to advise of these arrangements.
- 3.2.19. **Item No. 2:** The basement car parking is located approx. 300 m from the subject site. The property management company and applicant confirm that these spaces are not currently assigned to any other use within the development.
- 3.2.20. **Item No. 3:** Five car parking spaces have been allocated for the development, including 1 each per dwelling unit and 3 for the coffee shop. This parking provision is proposed based on consultation with development plan standards. It is noted that 3 no. coffee shop staff will be working at the same time.
- 3.2.21. **Item No. 4 (a) and (b):** A total of 4 no. bicycle parking spaces are proposed for the residential units as shown on Drawing No. 3.1.100. This drawing also shows 2 no. bicycle parking spaces for staff and 2 no. spaces for customers, external to the unit. Appropriate signage is proposed for customers to easily locate the bicycle parking and avoid unauthorised parking.
- 3.2.22. Following an assessment of the applicant's Clarification of Further Information submission, Dublin City Council's Planning Officer considered that the proposed development was consistent with the development plan and recommended that planning permission be granted.
- 3.2.23. **Other Technical Reports**
- 3.2.24. **Engineering Department – Drainage Division (20<sup>th</sup> January 2021 and 9<sup>th</sup> August 2021):** No objection to the proposed development subject to conditions.
- 3.2.25. **Transportation Planning Division (1<sup>st</sup> February 2021, 2<sup>nd</sup> July 2021 and 11<sup>th</sup> August 2021):** Further information initially recommended in relation to: (a) details on current parking management strategy and measures on Rathborne Place, including status of lands to the east of the site adjacent to access to rear servicing lane, (b) anticipated daily servicing and deliveries vehicles to serve the coffee shop, (c) details on total seated capacity of the coffee shop, (d) details on staff numbers, (e) details on measures to implement a zero parking strategy within the retail and residential units, (f) details of bicycle parking for staff of the proposed coffee shop.

3.2.26. Following the applicant's Further Information submission, Clarification of Further Information was recommended in relation to: (1) details of current parking management strategy, (2) location and current assignment of basement car parking, (3) the exceedance of development plan standards for the café car parking spaces, (4) unacceptable quantum of bicycle parking, (5) dedicated cycle parking for customers.

3.2.27. Following the receipt of the applicant's Clarification of Further Information submission, no objections arose to the proposed development subject to conditions.

### 3.3. **Prescribed Bodies**

3.3.1. **Irish Water:** None received.

3.3.2. **Irish Rail:** None received.

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

3.4.1. 11 no. third-party observations were made on the application by: (1) Paul Dix, 2(c) Rathborne Drive, Ashtown, Dublin 15, (2) Donal Laury, 14 Parkview, Ashtown, Dublin 15, (3) Residents of Rathborne c/o Sharon O'Malley, 32 Rathborne Place, Ashtown, Dublin 15, (4) W.P. Byrne, 30 Rathborne Place, Dublin 15, (5) Sharon O'Malley & Tony Kynes, 32 Rathborne Place, Ashtown, Dublin 15, (6) Brian & Patricia O'Higgins, 6 Rathborne Close, Dublin 15, (7) Michael Connolly, 26 Parkview Ashtown, Dublin 15, (8) Serguei Semikhatov, 51 Rathborne Court, Ashtown, Dublin 15, (9) Ekaterina Semikhatova, 27 Rathborne Drive, Ashtown, Dublin 15, (10) Bryan Maher on behalf of Rathborne Management Company No. 1 CLG, 27 Pelletstown Avenue, Royal Canal Park, Dublin 15, and (11) Bryan Maher on behalf of Rathborne Community Association, 6 Rathborne Close, Ashtown, Dublin 15.

3.4.2. The issues which are raised can be summarised as follows: (1) increased traffic, (2) noise and odour impacts, (3) inappropriate take-away use in Z14 zone, (4) limited parking with no controlled parking zone around the site, (5) anti-social behaviour, (6) littering, (7) inadequate waste storage area, (8) insufficient seating area for coffee shop use, (9) inadequate private open space for duplex units, (10) impact on property values, (11) planning permission previously refused for restaurant use, (12) opening hours not specified, (13) agreement required with the management company in relation to service charge apportionment and payment, (14) non-compliance with condition no. 9 of Planning Reg. Ref. 3351/03.



## 4.0 Planning History

4.1. **Planning Authority Reg. Ref. 3729/19; ABP Ref. 305805-19:** Planning permission refused by An Bord Pleanála on 4<sup>th</sup> March 2020 for a change of use from retail to restaurant at ground floor level with 1 no. 5-bedroom residential unit at 1<sup>st</sup> and 2<sup>nd</sup> floor levels for 2 no. reasons which can be summarised as follows:

(1) The proposed use as a takeaway food outlet would seriously injure the residential amenity of property in the vicinity, by reason of late-night activity, noise and general disturbance associated with such use, and would endanger public safety by reason of traffic hazard.

(2) The proposed residential development, which would have a potential occupancy of 10 persons, by reason of the failure to provide a satisfactory means of access to the apartment and the absence of private amenity open space, would result in a substandard form of development.

4.2. **Planning Authority Reg. Ref. 3306/08; ABP Ref. PL29N.230894:** Planning permission refused by An Bord Pleanála on 25<sup>th</sup> March 2009 for a change of use from retail to restaurant use (with ancillary take-away) and all associated site works.

4.3. Planning permission was refused for 1 no. reason as follows:

(1) Having regard to the proximity of residential property (including balconies thereof), to the site and to the layout and extent of the existing premises, with very confined space at ground floor level for ancillary servicing/storage/bin storage, taken together with the nature and scale of the proposed restaurant use in this confined area, it is considered that the proposed development would adversely affect the amenity of nearby residential property, by reason of noise, disturbance and odours and would, therefore, be contrary to the proper planning and sustainable development of the area.

## 5.0 Policy and Context

### 5.1. Dublin City Development Plan 2016-2022

### 5.2. Strategic Development and Regeneration Areas (SDRA)

- 5.2.1. A number of SDRAs are identified within the city which are capable of delivering significant quanta of homes and employment. Ashtown / Pelletstown is identified as SDRA No. 3. Guiding principles in relation to land-uses, general urban design / layout and detailed design are set out in Section 15.1.1.3 of the development plan, including, inter alia, to encourage employment-generating uses in vacant commercial buildings, on brownfield sites, and in identified mixed-use areas and to ensure a mix of residential typologies and designs at densities appropriate to ensure the viability of public transport and other supporting community facilities within a high-quality living environment.

### 5.3. Land Use Zoning

- 5.3.1. The site is subject to land use zoning “Z14” (Strategic Development and Regeneration Areas) which has the objective “to seek the social, economic and physical development and / or rejuvenation of an area with mixed use of which residential and “Z6” would be the predominant uses”.
- 5.3.2. Residential and restaurant uses are permissible under this zoning objective. The current application seeks permission for a coffee shop use at ground floor level. While coffee shop is not identified as a land use class in the Z14 zoning matrix, the land use definitions of the development plan (Appendix 21) define a restaurant and café as “a building where the primary function is for the sale of food, meals/refreshment for consumption on the premises”. As such, I am satisfied that a coffee shop use is permissible in principle on the subject site.

### 5.4. Housing

- 5.4.1. **Policy QH8:** To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.
- 5.4.2. **Policy QH18:** To promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments,

and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.

#### **5.5. Restaurants**

- 5.5.1. The development management standards which will be taken into consideration in relation to applications for restaurants are set out in Section 16.29 of the development plan. Those which are relevant to this appeal case include: (1) the effect of noise, general disturbance, hours of operation and fumes on the amenities of nearby residents, (2) traffic considerations, (3) waste storage facilities.

#### **5.6. Car Parking**

- 5.6.1. The site is located in Area 2 of the city for the purposes of car parking provision. A maximum standard of 1 parking space per dwelling unit and 1 space per 150 m<sup>2</sup> of seating area for restaurants/cafés applies in this area.

#### **5.7. Ashtown / Pelletstown Local Area Plan (2014)**

- 5.7.1. The guiding principles for development in the LAP area are reflected in Section 15.1.1.3 of the city development plan.

#### **Economic Development Strategy**

- 5.7.2. **Policy ED3:** To promote the provision of employment generating small-scale retailing and services in tandem with new residential developments in this Key Developing Area.

#### **Housing**

- 5.7.3. **Policy H2:** To ensure new residential development is effectively integrated into the existing environment in terms of design, layout and scale.
- 5.7.4. **Policy H4:** To encourage the development of high quality, energy efficient, sustainable housing that meets development plan standards and complies with the Dublin City Housing Strategy as outlined in the development plan.

#### **5.8. Sustainable Urban Housing: Design Standards for New Apartments (December, 2020)**

- 5.8.1. These Guidelines provide a target standard where existing buildings are to be wholly or partly redeveloped or refurbished for residential use that includes apartments. An

overall floor space requirement of 73 m<sup>2</sup> applies to a 2-bedroom / 4-person apartment unit, with a minimum private amenity space requirement of 7 m<sup>2</sup>. Balconies should adjoin and have a functional relationship with the main living areas, with a minimum depth of 1.5 m.

- 5.8.2. In central and / or accessible locations, the default policy is for car parking to be minimised, substantially reduced or wholly eliminated. A general minimum standard of 1 cycle parking space per bedroom shall apply, with visitor parking required at a rate of 1 space per 2 residential units.

## 5.9. **Natural Heritage Designations**

5.10. None.

## 5.11. **EIA Screening**

- 5.11.1. Having regard to the nature and scale of the proposed development, comprising a change of use of a permitted retail unit to a coffee shop use and 2 no. duplex units in an established residential area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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**

- 6.1.1. A third-party appeal against the Planning Authority's Notification of the Decision to Grant Planning Permission for the proposed development has been lodged by Brian and Patricia O'Higgins, No. 6 Rathborne Close, Dublin 15, Michael Connolly, 26 Park View, Dublin 15, Sharon O'Malley and Tony Kynes, 32 Rathborne Place, Dublin 15 and Donal Laury, 14 Parkview, Dublin 15. The grounds of appeal can be summarised as follows:

- The permitted development includes a take-away service in the coffee shop which has been repeatedly refused by An Bord Pleanála.

- The proposed take-away use was not referenced in the statutory planning notices.
- There is no passing trade at this location, which is a quiet, semi-residential street at the periphery of Rathborne. The take-away service would have to rely on vehicular visitors and / or a delivery service, both of which would greatly increase noise, disturbance and parking difficulties. These concerns are not addressed in the planning application.
- There is nothing to prevent longer opening hours than 7 am – 7 pm being implemented, which would cause aggravated nuisance and disturbance to local residents.
- The proposed ventilation system appears considerably over-specified for coffee shop requirements and makes provision for large-scale cooking.
- This application is aimed at providing a take-away service similar to that which was refused permission under Planning Authority Reg. Ref. 3729/19.
- The majority of residents have no objection to a bona fide café or coffee shop, provided a take-away service is explicitly ruled out.
- The coffee shop seating area identified on the planning drawings is minimal, and as such, the proposed development will primarily function as a take-away.
- The submitted plans for the duplex units contain no private amenity space.
- The proposed use will contribute to litter in the local area and will encourage anti-social behaviour.
- A take-away use would not comply with the Z14 zoning objective which applies to the site.
- Additional local services similar to those already existing at this location would be supported by local residents.
- Odour impacts to existing residential properties.

## 6.2. Applicant Response

6.2.1. A first-party response to the appeal was lodged by CPD Architecture on behalf of the applicant on 18<sup>th</sup> October 2021 and can be summarised as follows:

- As per the Planning Authority's decision, the main use of the ground floor level is as a coffee shop, with the provision to allow for take-away for cold food only.
- Market research undertaken by the applicant and the operator has identified a requirement for this type of use in the area, with footfall being evident to ensure that this use would be successful. With more people working from home, there is a greater need for local services.
- The hours of operation as granted by the Planning Authority is 7 am – 7 pm Monday to Sunday. The applicant has no desire to extend these opening hours, unless business demands same in the future.
- There is no restriction for the provision of hot food within the coffee shop itself and the provision of hot food for consumption off the premises is not intended for this development.
- A mechanical and electrical consultant (M & E) will be appointed prior to the commencement of development and a strategy will be designed to deal with all issues of planning compliance and building regulations.
- The appellants' suggestion of traffic related nuisance and parking congestion was not raised as an issue by Dublin City Council, nor was it considered that coffee shop patrons would drive to the unit to avail of its services.
- This unit will serve the local community and should a member of the public from outside the area wish to use it, they would park in the locality as occurs for other services in the area. Basement car parking has been provided for the coffee shop use to the satisfaction of the Planning Authority.
- Private balcony spaces are proposed for each apartment unit as illustrated on Drawing No. 3.1.100.
- The permitted opening hours will not result in any greater noise generation than the local Spar shop and other services in the area. Noise will also be

addressed in the M & E strategy. There is no evidence that a coffee shop use would act as a magnet for loitering teenagers.

- A litter control strategy must also be agreed with the Planning Authority prior to the commencement of development.
- As evident from the Planner's Report and the Grant of Planning Permission, the Planning Authority was satisfied that the current proposal can be accommodated on the subject site and addresses the needs of the area, while complying with development plan guidelines.
- It is requested that the Board upholds the decision to grant planning permission for the proposed development.

6.2.2. The appeal response includes a copy of the Notification of the Decision to Grant Permission, a copy of the third-party appeal and a copy of the Planning Officer's report.

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

6.3.1. None received.

### 6.4. **Observations**

6.4.1. None.

## 7.0 **Assessment**

7.1. Having reviewed the planning file and grounds of appeal, I am satisfied that the main issues for consideration in this case include:

- Principle / Nature of the Development
- Impact on Residential Amenity
- Standard of Residential Accommodation
- Appropriate Assessment

7.2. Each of these issues is addressed in turn below.

### **7.3. Principle / Nature of the Development**

- 7.3.1. The appellants' primary concern regarding the proposed development is its potential to function as a take-away use, rather than a coffee shop. The appellants submit that the minimal scale of the proposed seating area and the over-specified ventilation system supports their concerns. The appellants also note that a take-away use has previously been refused on the site by An Bord Pleanála, that a take-away use was not referenced in the statutory planning notices and that this use would not comply with the site's Z14 land use zoning objective.
- 7.3.2. In response to the foregoing, the applicant's agent submits that, as per the Planning Authority's decision, the main use of the ground floor is as a coffee shop, with the provision to allow for take-away for cold food only. It is further submitted that there is no restriction for the provision of hot food within the coffee shop itself and that the provision of hot food for consumption off the premises is not intended for this development.
- 7.3.3. While I have considered the appellants' concerns, in my opinion, this matter can be appropriately controlled by planning condition. I also note that the applicant has confirmed that hot food will not be offered for sale off the premises. As such, I am satisfied that the proposed ground floor coffee shop use would be acceptable in principle at this location, and in my opinion, would serve to complement the existing uses within the neighbourhood centre, while addressing the existing vacant status of the unit.

### **7.4. Impact on Residential Amenity**

- 7.4.1. The appellants have raised concerns regarding the potential of the proposed development to have a negative impact on the residential amenity of neighbouring properties by reason of noise, odour, litter, increased traffic and parking congestion, increased opening hours and anti-social behaviour.
- 7.4.2. In response to the foregoing, the applicant's agent submits that the applicant does not wish to increase the opening hours which have been permitted by the Planning Authority (7am – 7pm) and notes that any such amendment would require approval by way of a separate planning application. It is also submitted that the use would not generate any greater noise levels than the neighbouring Spar retail unit and that there is no evidence to support the appellants' assertion that the use would



encourage loitering. It is also noted that a litter management plan and a strategy for the control of odours must be agreed with the Planning Authority prior to the commencement of development. The applicant's agent also notes that traffic related nuisance and parking congestion was not raised as a concern by Dublin City Council.

- 7.4.3. In my opinion, the appellants' concerns regarding the potential for the development to impact on residential amenity largely relate to the use of the proposed coffee shop as a take-away. This matter has already been addressed. I am satisfied that issues relating to odours and litter can be addressed by condition and that the proposed coffee shop use would not have any significant noise impacts on local residents.
- 7.4.4. I agree it is likely that the proposed coffee shop use will serve the local residential population within walking distance of the site as identified by the applicant. I also consider that the appellants' fears regarding traffic and parking congestion are unfounded. The applicant has clarified the parking management strategy in place at this location, while dedicated car parking has been identified for the proposed uses. I note that the Transportation Planning Division of Dublin City Council has not objected to these arrangements subject to conditions, including inter alia, that the proposed car parking for the café use be reduced to comply with maximum development plan standards. This matter can be addressed by planning condition.
- 7.4.5. Thus, in conclusion, I am satisfied that the proposed coffee shop use would have no significant negative impact on the residential amenity of neighbouring properties in the vicinity of the appeal site and that any potential impacts arising can be appropriately managed by planning condition.

## **7.5. Standard of Residential Accommodation**

- 7.5.1. The appellants contend that the submitted plans for the duplex units do not identify any private amenity spaces. In response to the foregoing, the applicant's agent submits that private balcony spaces are proposed for each apartment unit as illustrated on Drawing No. 3.1.100. A review of this drawing confirms that private balcony spaces of 9.1 m<sup>2</sup> are proposed to serve each apartment unit, which exceeds the requirements of the 2020 Apartment Design Guidelines. For the avoidance of doubt, I note that the overall floor areas of each apartment unit also meet / exceed the minimum requirements for 2-bedroom / 4-person units. As such, I am satisfied

that the proposed duplex units would provide an acceptable standard of accommodation for future residents.

## **7.6. Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development, comprising a change of use of a permitted retail premises to a coffee shop and residential use, and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

## **7.7. Note**

- 7.7.1. Condition no. 3 of the Planning Authority's Notification of the Decision to Grant Permission for the proposed development requires the payment of a Section 48(2)(c) development contribution in the amount of €3,306. This contribution is required in respect of specific exceptional costs not covered in the Development Contribution Scheme which will be incurred by Dublin City Council in respect of public infrastructure and facilities which will benefit this development, which is located in the Pelletstown Development Area.
- 7.7.2. In reviewing the Planning Officer's reports on this application, the Ashtown / Pelletstown LAP 2014 and the S. 48 Development Contribution Scheme 2020-2023, I can identify no justification for the exceptional costs which would arise in the case of a change of use application relating to a permitted retail use in an existing neighbourhood centre. As such, I do not consider that a development contribution under Section 48 (2)(c) is warranted in this instance. In the event the Board disagrees with my assessment, I note that this matter can be addressed by planning condition.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission be granted for the proposed development.

## 9.0 Reasons and Considerations

9.1. Having regard to the nature and scale of the proposed development, comprising the change of use of a permitted retail unit in a neighbourhood centre to a coffee shop and residential use, and the site location and context, 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 or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>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 11<sup>th</sup> day of June 2021 and 27<sup>th</sup> day of July 2021, 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>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, as amended. The contribution shall be paid prior to 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</p>

	<p>matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, 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.</p>
3.	<p>(a) No part of the coffee shop use hereby approved shall be used for the sale of hot food for consumption off the premises.</p> <p>(b) The hours of operation of the coffee shop use shall be restricted to 0700 – 1900 hours Monday to Sunday.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
4.	<p>A scheme for the effective control of odour and fumes from the coffee shop use, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and thereafter shall be permanently maintained.</p> <p><b>Reason:</b> To ensure a satisfactory standard of development.</p>
5.	<p>Details of the ground floor shopfront shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and shall be in accordance with the following requirements:</p> <p>(a) Signs shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering.</p> <p>(b) Lighting shall be by means of concealed neon tubing or by rear illumination.</p> <p>(c) No awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission.</p> <p>(d) External roller shutters shall not be erected.</p> <p>(e) No adhesive material shall be affixed to the windows or the shopfront.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>

6.	<p>Proposals for a house numbering scheme shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of urban legibility.</p>
7.	<p>A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, 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.</p> <p><b>Reason:</b> To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
8.	<p>Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
9.	<p>Car parking allocation for the development shall comply with the Dublin City Development Plan “Maximum Car Parking Standards for Various Land-Uses” as outlined in Table 16.1 of the development plan.</p> <p><b>Reason:</b> To comply with development plan standards.</p>
10.	<p>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.</p> <p><b>Reason:</b> In the interest of public health.</p>
11.	<p>Prior to the commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>

12.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
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Louise Treacy  
Planning Inspector

12<sup>th</sup> August 2022