



An
Bord
Pleanála

Inspector's Report ABP311594-21

Development	Amalgamation of units and change of use from retail to restaurant and piazza take away.
Location	Mill Road, Greystones, County Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	21873
Applicant(s)	Ronan O'Caoimh
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	Applicant v Refusal
Appellant(s)	Ronan O'Caoimh
Observer(s)	None
Date of Site Inspection	30 th July 2022
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.032ha and comprises an unoccupied element of an existing supermarket and associated commercial units on Mill Road, Greystones, County Wicklow. The overall development includes an Aldi supermarket, car and bike parking. The application site faces onto Mill Road/R762, this road links the site to Greystones town centre to the northeast and to the M11 to the west.

2.0 Proposed Development

- 2.1. The proposed development comprises the amalgamation of previously permitted units and for the change of use of an existing retail use permitted under register reference 10/2013 to use as a restaurant for use as a wood fired pizza bakery for the sale of hot food for consumption on and off the premises (184m²), for external signage and all site services including connections to services and associated works and an existing unit adjoining Aldi Food Store, Mill Road, Greystones, County Wicklow.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the single reason.

The proposed development is located within 200m of a school premises. Objective RT17 in the County Development Plan seeks to exclude new fast food/takeaway outlets from being built or from operating within 400m of the gates or site boundary of schools or playgrounds, excluding premises zoned town centre and therefore the proposed development would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommended refusal as set out in the manager's order.

3.2.2. Other Technical Reports

The **Chief Fire Officer** recommended permission subject to conditions.

Irish Water Recommended permission subject to conditions.

4.0 Planning History

- 4.1. Reference 10/2013 permission granted for a food store (1,528m²), a two storey retail unit (189m²), a pharmacy unit (105m²), the renovation/refurbishment of an existing mill structure to include ground floor retail unit 3 (173m²), first, second and third floor offices (411m²), ESB substation and switch room (25m²), new vehicular entrance, signage structure and all shop front signage, internal footpaths, roads, 97 surface car spaces, bicycle parking, loading bay and bin storage, entrance canopies, boundary walls and fences, hard and soft landscaping all site services at Mill Road, Greystones, County Wicklow.
- 4.2. Reference 15/811 permission granted for a food store (1,528m²), a two storey retail unit (189m²), a pharmacy unit (105m²), the renovation/refurbishment of an existing mill structure to include ground floor retail unit 3 (173m²), first, second and third floor offices (411m²), ESB substation and switch room (25m²), new vehicular entrance, signage structure and all shop front signage, internal footpaths, roads, 97 surface car spaces, bicycle parking, loading bay and bin storage, entrance canopies, boundary walls and fences, hard and soft landscaping all site services at Mill Road, Greystones, County Wicklow.

5.0 Policy and Context

5.1. Development Plan¹

- 5.2. The Wicklow County Development Plan 2016-2022 is the current County Development Plan for the area.

Objective RT17 Conscious of the fact that planning has an important role to play in promoting and facilitating active and healthy living patterns for local communities, the

¹ The planning authority intend to make a new plan in September 2022 to take effect in October 2022.

following criteria will be taken into account in the assessment of development proposals for fastfood/takeaway outlets , including those with a drive through facility:

- Exclude any new fast-food / takeaway outlets from being built or from operating within 400m of the gates or site boundary of schools or playgrounds, excluding premises zoned town centre;
- Fast food outlets/takeaways with proposed drive through facilities will generally only be acceptable within Major Town Centres or District Centres and will be assessed on a case-by-case basis;
- Location of vents and other external services and their impact on adjoining amenities in terms of noise/smell/visual impact.

(For the purposes of RT17, "fast food/takeaway outlet" shall mean any outlet whose business will primarily be the sale of hot or otherwise prepared food that is high in fat, salt or sugar (such food being heated or prepared on the premises comprising of the outlet) for consumption on or off the premises comprising of the outlet).

5.3. **Draft County Development Plan CPO 10.14 in relation to fast food outlets proximate to Schools'**

5.4. Conscious of the fact that planning has an important role to play in promoting and facilitating active and healthy living patterns for local communities, the following criteria will be taken into account in the assessment of development proposals for fast-food/takeaway outlets, including those with a drive through facility:

- Exclude any new fast-food / takeaway outlets from being built or from operating within 400m of the gates or site boundary of schools or playgrounds, excluding premises zoned town centre / village / neighbourhood centre,
- Fast food outlets/takeaways with proposed drive through facilities will generally only be acceptable within Major Town Centres or District Centres and will be assessed on a case-by-case basis,
- Location of vents and other external services and their impact on adjoining amenities in terms of noise/smell/visual impact.

5.5. The site is zoned NC – Neighbourhood Centre in the **Greystones/Delgany/Kilcoole Local |Area Plan 2013-2019** (lifetime extended) "To protect, provide for, and

improve a mix of neighbourhood centre services and facilities, which provide for the day-to-day needs of the local community”.

5.6. **Natural Heritage Designations**

5.7. Not relevant

5.8. **EIA Screening**

5.9. Having regard to the nature and modest scale of the proposed development, its location in an existing building in an urban area and the availability of public piped services I conclude that the requirement for the provision of an EIAR and carrying out of EIA can be set aside at a preliminary stage.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The site is in an existing neighbourhood centre in an area which has experienced significant population growth in recent years.
- The floor area is 184m² and includes on-premises seating for customers, food preparation areas, stores and staff facilities.
- The sole refusal reason relates to proximity to schools. A temporary primary school located on nearby rugby grounds will move to Charlesland when it becomes available. A temporary secondary school located at Eire Óg will also move to the site at Charlesland where the Department of Education and Science plans a permanent secondary school.
- The site is zoned NC - to protect, provide for and improve a mix of neighbourhood centre services and facilities which provide for the day to day needs of the local community in the Greystone's Delgany Kilcoole LAP 2013/2019 as extended. The adjoining lands including the GAA club lands and the rugby club lands are zoned active open space where educational uses are not acceptable in principle – therefore the education uses of these lands are distorting the uses on the adjoining neighbourhood centre lands.

- The draft County Development Plan designates Greystones/Delgany as a self-sustaining growth town. The draft County Development Plan also relaxes the wording in relation to separation distances between fast-food outlets and schools allowing for such outlets in neighbourhood centres.
- There is a precedent for cooked food outlets within 400m of schools at Blacklion, Greystones.
- Takeaway restaurants are an integral part of the food environment.

6.2. **Planning Authority Response**

- None

6.3. **Observations**

- None

6.4. **Further Responses**

- None

7.0 **Assessment**

7.1. **Introduction.**

7.2. The site is remote from residential uses and adjoins existing roads, forecourt areas and existing/permitted commercial development. There were no objections from the public/residents at application or appeal stage. Having regard to the nature of the premises as part of a built - out commercial development with parking and public piped services I conclude that the single planning issue in this case is the reason for refusal given by the planning authority.

7.3. **Refusal reason.**

7.4. The planning authority refused planning permission because the proposed restaurant/takeaway would be contrary to objective RT17 of the Wicklow County Development Plan which seeks to exclude fast food outlets from within 400m of a

school or playground excluding areas zoned town centre. The planning authority referenced permissions from schools on nearby GAA and rugby clubs which are within 400m of the application site and refused on that basis but did not state that the proposed development materially contravened the County Development Plan.

- 7.5. The school on the rugby club lands was the Greystones Community National School which opened at a new site at Charlesland, Greystones in September 2021. The school on the Eire Óg GAA club grounds was granted a three-year permission (reference 21/57) on 15th March 2021 for temporary post primary accommodation on that site.
- 7.6. The application site is within a neighbourhood centre where the objective is to protect, provide for, and improve a mix of neighbourhood centre services and facilities, which provide for the day-to-day needs of the local community. No additional detail of permissible uses is included in the LAP but I consider that sit down restaurants and pizza takeaway may reasonably be considered to be neighbourhood centre services and that they meet the day-to-day needs of the local community. There is, therefore, a tension between the land use zoning for the application site and school uses protected by objective RT17 of the County Development Plan. The adjoining sports facilities are zoned AOS – ‘To provide for active recreational open space’ wherein educational uses are not listed as permitted or open for consideration. It may be noted that the planning authority did not refuse because it considered that the proposed use materially contravened the objective set out at RT17.
- 7.7. One of the schools (Greystones Community National School) has opened on a different site at Charlesland which is one kilometre away as the crow flies (longer by road) and the secondary school has temporary permission for three years starting in March 2021. It is significant in this context that the draft County Development Plan includes takeaway uses in neighbourhood centres as not being subject to the 400m limit from school premises. I conclude that the proposed use is compatible with the zoning objective for the site and is a complimentary use to the existing commercial/supermarket uses on site. It is remote from residential uses and there is accessible bike and car parking on site. The current County Development Plan seeks to take into account the location of fast-food outlets relative to educational uses and having regard to the movement of the primary school 1km away since the

planning authority's decision and the temporary nature of the permitted secondary school on lands zoned for active open space I conclude that it would be reasonable and not materially contravene the County Development Plan to grant permission in the present case.

7.8. Appropriate Assessment

7.9. Having regard to the nature and scale of the proposed development, nature of the receiving environment and distance to the nearest European site, I am satisfied that 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. Having regard to the foregoing and for the reasons and considerations set out below I recommend a grant of planning permission.

9.0 Reasons and Considerations

9.1. The proposed development is located in an area zoned "neighbourhood centre" Greystones/Delgany/Kilcoole Local Area Plan 2013-2019 with the objective to protect, provide for, and improve a mix of neighbourhood centre services and facilities, which provide for the day-to-day needs of the local community. Having regard to the nature of the application site as part of an existing permitted commercial use on appropriately zoned land, the temporary nature of the nearby educational uses and subject to the conditions set out below it is considered that the proposed development would not materially contravene an objective in the County Development Plan to restrict the location of fast-food outlets relative to educational uses and would otherwise accord with Greystones-Delgany-Kilcoole Local Area Plan 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 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>Reason: In the interest of clarity.</p>
2.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Surface water drainage arrangements, including surface water attenuation, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of the amenities of the area/visual amenity.</p>
5.	<p>No external security shutters shall be erected on any of the commercial premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<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 the commencement of development.</p>

	<p>This scheme shall include the provision of litter bins and refuse storage facilities.</p> <p>Reason: In the interest of visual amenity.</p>
7.	<p>The developer shall control odour emissions from the premises in accordance with measures [including extract duct details] which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of public health and to protect the amenities of the area.</p>
8.	<p>A plan for the management of waste (and, in particular, recyclable materials) 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>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
9.	<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. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p>

	<p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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Hugh Mannion

Senior Planning Inspector

8th August 2022