



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314002-22

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<b>Development</b>	Change of use to café and all associated site works.
<b>Location</b>	Unit 5, Goldenbridge Industrial Estate, Tyrconnell Road, Inchicore, Dublin 8.
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	WEB1262/22
<b>Applicant(s)</b>	We Buy Any Property Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	We Buy Any Property Ltd.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18 <sup>th</sup> April 2023
<b>Inspector</b>	Michael Dillon

## 1.0 Site Location and Description

- 1.1. The site, with a stated area of 1,948sq.m, is located within the Goldenbridge Industrial Estate – which takes access from Tyrconnell Road in Inchicore, Dublin 8. The junction is not signalised. The estate contains a wide range of uses. The site comprises the curtilage of Unit 5 – a two-storey industrial unit, which is currently in use as ‘Rascals’ micro-brewery/restaurant/bar and ‘Stillgarden’ distillery. There is covered outdoor seating to the northwest of the unit. Unit 5 is attached to Unit 6 – immediately to the southeast. A yard to the rear of Unit 5 has been converted to an outdoor market or eating/drinking area – with open timber booths on three sides of the triangular area, with gravel and plastic grass in the centre of the courtyard. Coloured lighting is strung between timber poles. The area was not in use on the date of site inspection. There is a single-storey, flat-roofed, concrete shed at the southwestern corner of the triangular courtyard (the subject of this appeal – for conversion to café). Next to it, are two small timber sheds containing toilets.
- 1.2. There are a pair of timber gates on the northwestern boundary of the courtyard area – which give vehicular access from a private industrial estate road, which has neither footpaths nor lighting. This roadway is gated. It has a separate pedestrian gateway which was locked on the date of site inspection. The roadway serves the rear of Units 1-4 and Unit 5 Goldenbridge Industrial Estate. Part of a unit to the west of Unit 5 is occupied by Stillgarden distillery – and, on the date of site inspection, a party of visitors crossed from one building to the other. The area to the rear of Units 1-4 is used for storage of wheelie bins and timber pallets.

## 2.0 Proposed Development

- 2.1. Permission sought on 23<sup>rd</sup> March 2022, for a change-of-use of a single-storey shed (25sq.m) within yard area to rear of a craft brewery/distillery, to café use.
- 2.2. Following a request for additional information – revised drawings were received on 30<sup>th</sup> May 2022, to indicate a pedestrian route between the café and the public footpath network within the industrial estate, and to indicated that there was no car-parking with the development. Hours of operation were proposed at 0900-2100 – Monday to Friday. The café is for take-away purposes only. There will be external benches for customer use. There will be no food prepared on the premises.

## 3.0 Planning Authority Decision

### 3.1. Decision

By Order dated 24<sup>th</sup> June 2022, Dublin City Council issued a Notification to refuse planning permission for 2 reasons as follows:

1. The applicant has failed to demonstrate a safe pedestrian environment to and from the application site to mitigate the potential conflict between pedestrians and vehicular traffic. The development is considered contrary to pedestrian and traffic safety and contrary to Policy MT12 of the Dublin City Development Plan, and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the uses at this location and the fact that the adjoining car-park serving the overall development has been removed without the benefit of planning permission, there is a concern with the potential of overspill car parking onto the road network of the industrial estate and the wider street network in the area. The proposed development would thereby seriously injure the amenities of properties in the vicinity and would be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

Dated 10<sup>th</sup> May 2022 – summarises the other internal reports, and recommends additional information.

Dated 25<sup>th</sup> June 2022 – incorporates the Transportation Planning Division's report and recommends refusal for two reasons relating to pedestrian safety and overspill car-parking onto industrial estate roads.

#### 3.2.2. Other Technical Reports

*Engineering Department – Drainage Division*

Report of 7<sup>th</sup> April 2020: indicates no objection, subject to conditions, one of which related to separation of foul and surface water drainage.

### *Environmental Health Office*

Report of 21<sup>st</sup> April 2022: indicates objection on grounds of absence of measures to control noise and air pollution. In the event of permission, conditions are suggested.

### *Transportation Planning Division*

Report of 25<sup>th</sup> April 2022: recommends additional information to seek the relocation of the access to the café.

Report of 13<sup>th</sup> June 2022: recommends refusal because of lack of safe pedestrian connectivity within the industrial estate, which would be contrary to Policy MT12 of the Plan (the 2016 Dublin City Development Plan). It is noted that the adjoining car-park within the curtilage of Unit 5 has been removed without planning permission. There is concern that overspill car-parking onto the road network of the industrial estate would result in traffic hazard.

## **4.0 Planning History**

**Ref. 2555/18:** Permission granted for change of use of industrial unit (brewery) to restaurant use, new doors and signage.

## **5.0 Policy Context**

### **5.1. Development Plan**

The relevant document is the Dublin City Development Plan 2022-2028. The site is zoned 'Z10' – 'To consolidated and facilitate the development of inner city and inner suburban sites for mixed-uses'. The focus will be on delivering a mix of residential and commercial uses. Café is considered to be a 'Permissible Use'.

The site is within Strategic Development and Regeneration Area 9 – Emmet Road (SDRA). Within the boundary, Goldenbridge Industrial Estate is indicated as a Potential Development Site. Figure 13-9 of the Plan gives an indicative layout of possible future development (copy included in the photograph pouch which accompanies this Inspector's Report).

Policy SMT18 states in relation to The Pedestrian Environment- 'To continue to maintain and improve the pedestrian environment and strengthen permeability by

promoting the development of a network of pedestrian routes including laneway connections which link residential areas with recreational, educational and employment destinations to create a pedestrian environment that is safe, accessible to all in accordance with best accessibility practice’.

## **5.2. Natural Heritage Designations**

The site is not located within or adjacent to any Natura 2000 sites. There are no watercourses either within or adjoining the site which could link this site with a waterbody-defined Special Area of Conservation or Special Protection Area. Wastewater will be discharged to the public sewer system.

The proposed development is located within an established suburban area, on zoned lands that are suitably-serviced. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any Natura 2000 sites. A Stage 2 Appropriate Assessment is, therefore, not required.

## **5.3. EIA Screening**

Having regard to the nature of the proposed development, comprising the change-of-use of a small shed to café, in an established industrial area, where infrastructural services are available, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded on preliminary examination; and a screening determination is not required.

## **6.0 The Appeal**

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

- 6.1.1. The first party appeal from We Buy Any Property Ltd, received by the Board on 5<sup>th</sup> July 2022, can be summarised as follows-

- The reason for refusal refers to Policy MT12. This policy refers specifically to urban roads and streets. The site is accessed by a gated laneway.
- The space is already shared with pedestrians accessing adjoining industrial units. The proposed improvements in pedestrian access and the demarcation of pedestrian areas, as outlined in drawings submitted, would improve traffic-calming measures introduced by the Council.
- On average, 10 vehicle movements per day occur in this area – the bulk being before 10.00 hours – outside of the proposed operating hours of the café.
- There is a retail ethnic supermarket with a large pedestrian footfall that seems to be able to operate on the main thoroughfare of the estate, with no pedestrian demarcation.
- To the appellant's knowledge, there have been no traffic incidents involving pedestrians within the estate.
- The adjoining car-park was never used to serve the whole development. The operation of the Rascals Brewery, which is a completely separate entity, generally commences at 16.00 hours, and the vehicular gates to this lane are generally locked at 17.00 hours – making it impossible to use this as a car-park. It has, for the past 4 years, been used as a storage yard for a construction company as well as a breakers' yard for the car repair garage that previously occupied unit 4A. Unit 4A is now being leased by Rascals Brewery and Stillgarden Distillery jointly, and as a result of this, the amount of parking in the estate has increased dramatically, as Dublin Radio Cabs, the operator of the garage, had cars stored all over the estate in various stages of disrepair – for months on end.
- The operation of Rascals Brewery means that patrons use public transport, when other businesses in the estate have finished for the day. Many licensed premises in Dublin have converted car-parks to outdoor dining areas.
- There has never been a problem with parking in this area.

6.1.2. The appeal is accompanied by-

- A4 map showing pedestrian route in the vicinity of the site.

- 3 no. A4 colour photographs of the estate.

## 6.2. Planning Authority Response

None received.

## 6.3. Observations

None received.

## 7.0 Assessment

### 7.1. Development Plan Considerations

- 7.1.1. Since permission was refused, the Development Plan has changed. The zoning is now 'Z10' – To consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses'. Café use is a 'permissible use' within this zoning. Indeed, all of unit 5 seems to be occupied by a micro-brewery and distillery with associated eating and drinking areas – both indoors and outdoors. The site forms part of a larger area designated as Strategic Development and Regeneration Area 9 – Emmet Road. Section 13.11 of the Plan deals with SDRA 9. The aim of the SDRA is to redevelop underutilised industrial areas and to improve their connectivity to the villages of Inchicore and Kilmainham. In relation to Goldenbridge Industrial Estate, there are some generalised policies in relation to opening up the Camac River and creating linkages with surrounding uses and amenities. Figure 13-9 gives an rough outline of what access and development within the SDRA might look like. I would be satisfied that a small café development of this nature could not have any real implications for the realisation of the aims of the SDRA, and would not, therefore, be premature, pending the development of a masterplan for the SDRA.
- 7.1.2. Policy SMT18 relates to the pedestrian environment; and is addressed in the section of this report relating to Access & Parking.

## 7.2. Design & Layout

- 7.2.1. The shed building is located in the corner of a yard, which has been converted to semi-outdoor drinking/dining area. Permission has been refused because this courtyard area is indicated as parking to serve the industrial unit. The applicant has argued that the current brewery use does not require the car-parking and that patrons do not arrive by private cars. The planning authority is concerned that no change-of-use has been sought for the courtyard area. The granting of permission for the change-of-use of this shed to café use, could have implications for the use of the remainder of the courtyard area. The applicant states that no food will be prepared on the premises, so air handling and extraction will not be used. The business proposed is take-away – so only staff will be in the building. There are two outdoor toilets nearby. The applicant states that there will be outdoor benches for use of customers.
- 7.2.2. The café is to operate between the hours of 0900-2100, Monday to Friday. I would consider that the café use will not have any impact on surrounding property – particularly the nursing home to the south.

## 7.3. Access & Parking

- 7.3.1. The only access to the site would appear to be a pair of timber gates on the northwestern boundary of the courtyard of Unit 5. These gates give directly onto an internal cul de sac industrial estate road, which has neither footpaths nor public lighting. Units 1-4 would appear to have external lighting to light roller shutter doors which open onto this private estate road. The roadway is gated beside Unit 5. The applicant states that the vehicular gates are closed at 17.00 hours – and that traffic is limited on this roadway – mostly to before 10.00 hours. The use of the roadway will, to some extent, depend on the nature of the businesses operating from Units 1-4, and 5, which may be subject to change. There is a separate pedestrian gateway beside the vehicular entrance gates, but it does not appear to be currently in use. The applicant, by way of additional information submission, indicated a ‘pedestrian route’ to the café from the gateway on the private road. It would appear to be simply marking on the roadway and then to cross an area currently used to store wheelie bins, before terminating at the pedestrian gate to the private roadway. There are



footpaths beyond this gate, beside Unit 4. As noted elsewhere in this report, there is covered outdoor seating in front of Unit 5, for the brewery and the distillery uses. At present, patrons cross the private roadway between Unit 5 and Unit 4A. The roadway is wide enough to permit of the construction of a proper pedestrian path and crossing – which would promote the safety of pedestrians on the roadway. In the absence of such a dedicated pathway – particularly when the café was operating in hours of darkness (it is stated to operate up until 2100 hours) – the proposed development would be contrary to Policy SMT18 of the Plan. This policy seeks to create a safe pedestrian environment. The proposed development would constitute a traffic hazard; through encouraging pedestrian movements on a shared roadway, and potentially in hours of darkness. Permission should be refused for this reason.

- 7.3.2. The courtyard, in which the café is to be located, would appear to be an area indicated for car-parking associated with Unit 5. Notwithstanding the claim of the applicant that the car-parking is not necessary for the existing use, it may be required for some future industrial use of the unit. Whilst the change-of-use of the shed would not of itself impact on the use of the courtyard area for car parking, the presence of customers, and proposed outdoor benches for their use, would impact on the operation of the courtyard for car-parking. The proposed development would contravene condition 4(a) of permission ref. 2555/18; which states that car parking spaces shall be permanently allocated to the proposed use, and shall not be sold, rented or otherwise sub-let or leased to other parties. The proposed development would contravene that condition – particularly as it would appear that no permission has been granted for the change-of-use of the courtyard area.

#### **7.4. Other Issues**

##### **7.4.1. Drainage**

The application is not accompanied by a drainage layout. Toilets are indicated beside the shed. Notwithstanding this, the Engineering Department – Drainage Division of DCC, was satisfied to recommend that permission could be granted.

##### **7.4.2. Water Supply**

The application was circulated to Irish Water for comment, but no response appears to have been received. Having regard to the limited extent of the development

proposed, it would not seem likely that there would be a difficulty in supplying the café with water.

#### 7.4.3. Signage

The drawings submitted indicate signage proposed on the building, which is acceptable.

#### 7.4.4. Development Contribution

As permission was refused by DCC, it is not indicated if the proposed development would attract the requirement to pay a development contribution. Similarly, arising from the proximity of the Luas line, it is likely that the development would attract a special development contribution requirement for this infrastructure. If the Board is minded to grant permission for this development, a condition should be attached requiring payment of a development contribution and a special development contribution in accordance with the Development Contribution Schemes in place.

### 8.0 **Recommendation**

8.1. I recommend that permission be refused for the reasons and considerations set out below.

### 9.0 **Reasons and Considerations**

1. The proposed development would endanger public safety by reason of traffic hazard, arising from the absence of any proper pedestrian path and public lighting, to link the café site with the public footpath and lighting network within the wider Goldenbridge Industrial Estate. The proposed development would contravene Policy SMT18 of the current development plan for the area – which seeks to create a pedestrian environment which is safe, accessible to all and in accordance with best accessibility practice.
2. The development would contravene materially condition 4(a) of permission ref. 2555/18 for Unit 5 Goldenbridge Industrial Estate; which states- ‘Car parking spaces shall be permanently allocated to the proposed use, and shall not be sold, rented or otherwise sub-let or leased to other parties’. The

change-of-use of the shed to café, would impact on the car-parking layout indicated for the yard area to the rear of Unit 5.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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**Michael Dillon,  
Planning Inspectorate.**

**20<sup>th</sup> April 2023**