



An
Bord
Pleanála

Inspector's Report ABP-314619-22

Development	Retain bar use and alterations and extensions to restaurant use.
Location	115-116 Coliemore Road, Dalkey, Co. Dublin.
Planning Authority	Dun Laoghaire-Rathdown Co. Council
Planning Authority Reg. Ref.	D22A/0452
Applicant(s)	Robert Gilmartin
Type of Application	Permission
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party
Appellant(s)	Robert Gilmartin
Observer(s)	Brian Wood Gary Morrison Pauline & Christopher Brennan James Diedrich Leo McCabe Mairead McCabe

Date of Site Inspection

1st February 2023.

Inspector

Michael Dillon

1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.0356ha, is located at the junction of Coliemore Road and Tubbermore Road in the centre of Dalkey village, Co. Dublin. It is occupied by The Coliemore – a public house/restaurant. The upper two floors of 115 Coliemore Road comprise an apartment – accessed via a doorway on Tubbermore Road, and reached via an independent staircase and first floor roof terrace. The adjoining site, 1 Tubbermore Road, is indicated as being within the control of the applicant (outlined in blue) – whilst the site (outlined in red) comprises only 115-116 Coliemore Road. 115-116 Coliemore Road face directly down the length of Castle Street. 115 is a three-storey building, whilst 116 is largely two-storey. There are multiple single- and two-storey extensions to the rear of the public house. The building has been extensively altered internally. The three-storey element (115) is still recognisably a separate building – from the outside at least. 115 has a red-brick façade with sash windows. The exposed gable is plastered and painted. 116 is plastered in white with red paint details to cornices, window surrounds and shopfronts. The upper storey has similar sash windows (one-over-one) to those in 115 – although not so tall. The roof of 115 is slated and hipped to the front, whilst the roof of 116 is flat. Immediately to the north, 114 is a gable-fronted red-brick premises with sash windows at upper floor levels and painted barge boards. The ground floor is in commercial use.
- 1.2. There are double yellow lines along all road frontages. The footpath on Tubbermore Road is approximately 1.5m in width, whilst the that fronting Coliemore Road is wider on the junction with Castle Street. There is a two-storey building on the opposite side of Tubbermore Road – ‘Select Stores’ with residential use at first floor level. The ground floor commercial use was not in operation on the date of site inspection.

2.0 Proposed Development

- 2.1. Permission sought on 24th June 2022, for commercial development as follows-
- Retain bar use at ground level.
 - Internal alterations – to include change-of-use from residential back to original commercial use of two upper floors of 115 Coliemore Road.

- Widening of doorway onto Tubbermore Road.
- First floor kitchen extension of 18sq.m.
- Extension at second floor level of 158sq.m for restaurant use, with retractable roof, smoking area and glazed acoustic walls.
- New storage area at third floor level of 41sq.m within existing 115 building.

2.1.1. The application is accompanied by the following documentation of note-

- Design Statement.
- Engineering Report.
- Conservation Architect Report.
- Fire Safety Report.

3.0 Planning Authority

3.1. Decision

By Order dated 18th August 2022, DL-RCC issued a Notification of decision to refuse permission for 2 reasons, summarised as follows-

1. The site is situated at a prominent location within the Dalkey Village Architectural Conservation Area. Development, which includes the construction of a second-floor level extension, comprising also of outdoor seating area with associated screens and retractable awnings, and an outdoor smoking area, would be visually obtrusive, would fail to enhance the streetscape character and would adversely affect the Dalkey Village ACA. The development would, therefore, be contrary to Policy Objective HER13, section 12.11.3 and section 12.11.4 of the Plan; and to the proper planning and sustainable development of the area.
2. The proximity of the second-floor level outdoor seating areas and smoking area to neighbouring residential properties to the southeast would, if permitted, be visually obtrusive and would be injurious to the residential amenities of the area and would depreciate the value of property in the vicinity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There is a detailed report dated 18th August 2022. This report recommends refusal based on the report of the Conservation Officer – referenced below.

3.2.2. Other Technical Reports

Transportation Planning – report of 18th August 2022, required a contribution towards provision of on-street bicycle parking – in the absence of space for on-site provision. Additional Information was sought for provision of changing facilities for staff who bicycle to work.

Conservation Division of Architect's Department – report of 2nd August 2022, stated that the design was not sufficiently sensitive to this important junction site – within the Dalkey Architectural Conservation Area. Whilst there is a supporting statement from a Grade 1 Conservation Architect, this does not fully meet the requirements as set out in Appendix B of the Architectural Heritage Protection Guidelines for Planning Authorities. Building fails to contribute in a positive manner to the built character and form of Dalkey.

Drainage Division – report of 29th July 2022, raises no objection.

Environment Section – report of 19th July 2022, recommends condition relating to construction monitoring and abatement of nuisance, and handling of C&D waste.

Environmental Health Office – report of 8th August 2022, states proposal is acceptable subject to conditions relating to piped music, noise and times of use of external terraces.

4.0 Planning History

D15A/0137: Permission refused for construction of a new single-storey apartment at first floor level over public house.

D15A/0138: Permission refused for retention of change-of-use to residential of two-storey area situated above ground floor public house.

5.0 Policy Context

5.1. Development Plan

The Dún Laoghaire-Rathdown County Development Plan 2022-2028 is of relevance. The site is zoned Objective NC – ‘To protect, provide for and/or improve mixed use neighbourhood centre facilities. A small portion (the eastern part of the site) is zoned Objective A1 – ‘To provide residential development and improve residential amenity while protecting the existing residential amenities’. The site is located within the Dalkey Architectural Conservation Area (ACA). Policy HER13 of the Plan, relating to ACAs, states, *inter alia*-

It is a Policy Objective to:

- i. Protect the character and special interest of an area which has been designated as an Architectural Conservation Area (ACA). Please refer to Appendix 4 for a full list of ACAs.
- ii. Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character Appraisals for each area.
- iii. Ensure that any new development or alteration of a building within an ACA or immediately adjoining an ACA is appropriate in terms of the proposed design, including scale, height, mass, density, building lines and materials.
- iv. Seek a high quality, sensitive design for any new development(s) that are complementary and/or sympathetic to their context and scale whilst simultaneously encouraging contemporary design which is in harmony with the area. Direction can also be taken from using traditional forms that are then expressed in a contemporary manner rather than a replica of a historic building style.

Section 12.11.3 of the Plan refers to ACAs; whilst Section 12.11.4 refers to new development within such ACAs. [Copy included in the photograph pouch which accompanies this Inspector’s Report]. The entire centre of the village is designated an Area of Archaeological Potential – 023023. Dalkey Village is within Parking Zone 2.

5.2. Natural Heritage Designations

There are no Natural Heritage Designations either within or immediately adjoining the appeal site. The development will be connected to the public sewerage network. There are no watercourses linking the site with any such designated areas. The application was screened for Appropriate Assessment by DL-RCC. Significant effects are not likely to arise, either alone or in combination with other plans or projects.

5.3. EIA Screening

Having regard to the nature and scale of the development proposed, within a fully serviced suburban location; it is considered that there is no likelihood of significant effects on the environment arising. The application was screened for Environmental Impact Assessment by DL-RCC. The requirement for environmental impact assessment can be excluded at preliminary examination stage. A screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appeal from CDP Architecture, agent on behalf of the applicant, Robert Gilmartin, received by the Board on 14th September 2022, can be summarised in bullet-point format as follows-

- The applicant obtained the services of a Grade 1 Conservation Architect in drawings up plans; and concluded that the development would have a positive impact on the building, the site, Protected Structures in the vicinity, and would not detract from the character of the ACA.
- The applicant was not afforded the chance to submit revised proposals by way of an additional information request from DL-RCC.
- The design is contemporary and site-specific, taking account of its context and is generally subsidiary to the main structure. The design did not take the pastiche approach.

- The addition of a floor above the two-storey section will remove the incongruity which currently exists with the three-storey building on the site.
- The proposal was for a lightweight steel-framed structure – with some sections being retractable.
- A revised proposal is now submitted for the consideration of the Board. The second-floor section has been set-back from Coliemore Road (Castle Street) by 3m – to provide for an outdoor seating area. The additional floor will not affect the existing façade of this public house/restaurant. The materials chosen and the geometric arrangement of windows is sympathetic to the original. The quantity of glazing on Tubbermore Road has been reduced, with the introduction of more solid elements and traditionally proportioned windows. Render will be white in colour. This white paintwork will render the building less prominent than the existing red colour of 'The Coliemore'.
- The applicant owns 1 Tubbermore Road. A separation distance of c.4m is now proposed between the residential use and the pub/restaurant use. A reduced area for outdoor smoking is provided adjacent to 1 Tubbermore Road. The smoking area is to be reduced from 19.4sq.m to 9.7sq.m. Glazed panels will be replaced with a solid wall, which will alleviate concerns in relation to perceived overlooking.
- Staff changing facilities for cyclists are now provided on the top floor of existing 3-storey building – in lieu of storage space. Bicycle storage is now provided at ground level.
- The applicant is willing to abide by conditions suggested by the Environmental Health Section, the Drainage Division and the Transportation Section of DL-RCC. However, objection is made in relation to the requirement for a Public Liaison Plan for dealing with C&D waste. A Construction Management Plan would be just as effective in dealing with this matter.

6.1.2. The response is accompanied by a number of appendices: of note are-

Appendix C – 2 revised photomontages.

Appendix D – revised report from Grade 1 Conservation Architect, which includes a photographic record, Outline Conservation Methodology and Outline Schedule of

Conservation Works. The report addresses issues raised by 3rd party objectors to DL-RCC, in relation to noise, overlooking, and development within an ACA. The appendix contains annotated photographs of buildings and streetscapes within the ACA, and of the interior of the pub/restaurant.

Appendix E – some letters of support for the application from neighbouring property owners.

6.2. Planning Authority Response

The response of DL-RCC, received by the Board on 4th October 2022, indicated that there was no further comment to add to reports already on the file.

6.3. Observations

6.3.1. There are 6 observations from the following-

- Brian Wood, 15 Tubbermore Road – received on 3rd October 2022.
- Gary Morrison, 6 Tubbermore Road – received on 4th October 2022.
- Pauline & Christopher Brennan, 14 Tubbermore Road – received on 5th October 2022.
- James Diedrich, 2 Tubbermore Road – received on 7th October 2022.
- Leo McCabe, 36 Tubbermore Road – received on 7th October 2022.
- Mairead McCabe, 36 Tubbermore Road – received on 7th October 2022.

6.3.2. I note that many of the observations relate to the original proposal to DL-RCC, and not the revised proposal submitted to the Board by way of 1st Party appeal. The issues raised can be summarised in bullet-point format as follows-

- The development would impact negatively on Tubbermore Road and Castle Street – both of which are within an ACA.
- The pub already contributes a significant level of traffic at a busy junction, and the extension would exacerbate this – at pedestrian and vehicular level; both patrons and deliveries/bin collection. Patrons would seek parking on Tubbermore Road, which is already congested.

- The site is highly visible at a prominent junction, and the extension would alter the streetscape and harmony with adjacent structures.
- The development will not be in keeping with existing architectural heritage and would materially affect the character of the area.
- The application makes no reference to seating areas on the public footpath, and the extension of the premises into the grounds of no. 1 Tubbermore Road. The commercial site has extended into the curtilage of 1 Tubbermore Road.
- More noise would be created in a quiet residential street at Tubbermore Road. Open seating and smoking areas would contribute to noise. Existing noise levels from within and without the pub are already causing nuisance.
- The rear garden of 1 Tubbermore Road is used as keg store – with noise generated into the early morning.
- The construction phase of the development would cause considerable disruption for residents.
- Given the age of the buildings on this site, consideration should be given to adding them to the list of Protected Structures.
- Addition of a third floor would result in overlooking of neighbouring properties – particularly the gardens of 2 Tubbermore Road and the first floor living areas of 36 Tubbermore Road.
- The applicant has removed the front wall of 1 Tubbermore Road. This has led to enforcement proceedings from DL-RCC – with the applicant undertaking to replace the wall by July 2022.

7.0 Assessment

7.1. Development Plan

The proposed development is in accordance with the Neighbourhood Centre zoning of the site. Any incursions into the residential zoning on 1 Tubbermore Road, which may not be authorised, are a matter for enforcement by the planning authority. The

buildings on site are not Protected Structures, and there are none such immediately adjoining the development. 115 Coliemore Road is something of an exception in the area, in terms of its three-storey nature – although the building immediately to the north is two-storey with an additional gable-fronted attic storey. 116 Coliemore Road is of two storeys with a flat roof. I would see no difficulty with the addition of a third storey to this building. The blank south-facing gable of 115 would be largely hidden by a third storey added to 116.

7.2. Architectural Conservation Area

7.2.1. The site is located within the Dalkey Village Architectural Conservation Area (ACA). A Statement of Character has been prepared by the planning authority for this ACA [copy included within the pouch accompanying this Inspector's Report]. The first reason for refusal related to ACA issues – largely based on the report of the Conservation Division of the Architect's Department of DL-RCC. The Plan states- 'While the purpose of ACA designation is to protect and enhance the special character of an area, it should not be viewed as a means of preventing new development but rather to help guide and manage change to ensure developments are sympathetic to the special character of the ACA'. It further states- 'The protected status afforded by inclusion in an ACA only applies to the exteriors of structures and features of the streetscape. It does not prevent internal changes or rearrangements provided that these changes do not impact on the external appearance of the structure'. The proposed development involves considerable alterations within 115 & 116. I would be satisfied that these internal alterations (including the minor widening of a doorway onto Tubbermore Road) would not affect the character of the area.

7.2.2. The proposed development-

- Does not impact on any Protected Structure.
- Will not involve demolition of structures contributing to streetscape character.
- Will be subsidiary to the main structure – with particular regard being had to the three-storey height of 115.
- Will not have any impact on the two plots, which are already amalgamated internally.

- Will not involve any alterations to signage.
- Will not impact on the public realm – in this instance, adjacent footpaths.
- Will not involve introduction of any new street furniture.
- Will retain original features, such as first floor windows and external parapet work.

7.2.3. The principal issue of concern is the impact of the development on the character of the ACA. The essential character of this part of the ACA is largely defined by the prevailing mid-to-late 19th century commercial appearance of buildings, which abut the public footpath. Whilst of different architectural styles, 115 & 116 (together with 114 – and to a lesser degree the other adjoining buildings of St. Mary's Terrace) form an attractive, if somewhat eclectic assemblage. I would be satisfied that an appropriately-designed additional storey on the flat roof of 116, would not detract from the character of this area – notwithstanding that 36 Tubbermore Road (immediately opposite) is similar in scale and appearance to 116. The proposal of the applicant to change the palette of colours on the exterior of 'The Coliemore' is unnecessary, as the existing red and white colour does not detract from the character of the area – particularly in the context of the proximity to the sea.

7.2.4. I consider that neither the original proposal for the additional floor, nor the one submitted to the Board with the 1st Party appeal, has sufficient regard for the prominence of the site – particularly when viewed from Castle Street to the west. The site occupies a prominent place, terminating the vista at the eastern end of Castle Street. Number 115 already, to some extent, terminates this vista. An additional storey on the roof of 116 could further contribute to the termination of this vista. The appearance of the proposed additional storey, when viewed from Tubbermore Road, would detract from the character of this street – both in the original and revised iterations. Neither of the proposals submitted for consideration are of sufficient quality, and would be visually obtrusive; which would be detrimental to the character of the structure (116), its setting (relationship with 115) and context (termination of the view east along Castle Street and prominence at a strategic junction of roads within the village). Permission should be refused for this reason.

7.3. Residential Amenity

- 7.3.1. The second reason for refusal related to impact on residential amenity. The proposal, as originally submitted to DL-RCC, involved external seating at second floor level. This was altered by way of 1st Party appeal submission – to reduce the roof terrace area to 10.4sq.m, with no outdoor seating indicated. It is not clear from drawings just what this outdoor terrace would be used for. The enclosure of the roof terrace area (revised proposal submitted to the Board) would certainly reduce noise emanating from this area – and would have an impact at night-time, when noise nuisance is likely to be most felt. The addition of a third floor will not have any significant impact on the residential amenity of 36 Tubbermore Road. The first-floor accommodation within 36 has windows directly onto the street; and is already addressed by first-floor windows within 116.
- 7.3.2. The revised proposals, submitted to the Board with the 1st Party appeal, reduced the area of the first-floor smoking terrace and provided for a solid wall in place of glazing. This terrace, would, in any event only overlook front gardens of houses, on Tubbermore Road – which are not considered to be private amenity spaces. Noise from those using the smoking terrace would not be significantly different to noise from those standing outside a public house and smoking on the pavement. Whilst Tubbermore Road is predominantly residential – its western end is commercial, and zoned ‘Neighbourhood Centre’.
- 7.3.3. Reference made to obstruction caused, by placing of tables on the public footpath, is not an issue of relevance to this appeal – and is a matter for the local authority, if such placement is causing a traffic hazard. Claims that additional seating within this premises will lead to additional pressure for parking on Tubbermore Road, is not a relevant consideration. The existing public house/restaurant provides no on-site parking. It is located within a busy village, which is zoned for neighbourhood centre uses. The control of parking on any street is a matter for the local authority – in consultation with interested parties. I would not consider that the proposed development, in the centre of the village, within easy reach of DART and bus services, will have any significant impact on traffic or parking.
- 7.3.4. Nuisance and disturbance caused during the construction phase would be of limited duration; and is not considered a reason which would warrant refusal of permission.

7.4. Other Issues

7.4.1. Cycling Facilities

Section 12.4.6.2 of the Plan states- 'Where cycle parking cannot be conveniently provided within the development, a financial contribution of €500 per cycle parking stand will be required to provide alternative on-street cycle parking provision in the vicinity of the development'. The Transportation Section of DL-RCC recommends such a contribution – for 2 stands. Having regard to the extent of the development, this would appear to be reasonable. The 1st Party appeal indicated bicycle parking within the passageway area beside the keg store. This is outside the site as outlined in red – but within the blue-line ownership of the applicant. Staff changing facilities have been provided within the development by way of changes submitted to the Board with the 1st Party appeal – as a way of addressing the concerns of the PA in this regard. These facilities are located on the proposed top floor of 115 – in place of a storeroom. These arrangements would meet the standards set out in the Plan.

7.4.2. Flooding

The site is stated to be within Flood Zone C – with no instances of flooding reported. The use is not a vulnerable one. The proposed green roof (with 3.1 cubic metre capacity) will reduce the risk from pluvial flooding.

7.4.3. Development Contribution

If the Board is minded to grant permission for this development, a development contribution in accordance with Section 48 of the Planning and Development Act, 2000 (as amended), should be attached.

7.4.4. Number 1 Tubbermore Road

This property has been outlined in blue on drawings received with the application. It is clearly stated that it is in the ownership of the applicant. Observers have stated that the public house/restaurant use has extended into the residential curtilage. I have elsewhere in this report noted that part of the appeal site (as outlined in red) is zoned for residential use. If unauthorised development has been carried out on the site of 1 Tubbermore Road, then this is a matter for DL-RCC. Reference is already made on this file to the unauthorised removal of the roadside boundary of 1 Tubbermore Road. Observers have noted that the house is in use as a B&B. The

question of its use, and whether such use is or is not authorised, is a matter for DL-RCC.

7.4.5. Archaeology

The site is located within an area of archaeological potential associated with Dalkey village. The development will not involve any sub-surface excavations, and will not, therefore, impact on archaeology.

7.4.6. Signage

There are no signage proposals with this development.

7.4.7. Water & Sewerage

The Drainage Division of DL-RCC had no objection to the proposal. The proposal was acceptable to the Environmental Health Office, subject to attaching appropriate conditions.

7.4.8. Adding 115 & 116 to List of Protected Structures

Observers note that the buildings on site should be added to the list of Protected Structures. This is not a relevant issue in consideration of this appeal. The buildings are not, at present, Protected Structures.

8.0 **Recommendation**

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

9.0 **Reasons and Considerations**

1. The site is situated at a prominent location within the Dalkey Village Architectural Conservation Area. The design of the second-floor level extension to 116 Coliemore Road, notwithstanding revised proposals submitted with the appeal, would be visually obtrusive, would fail to enhance the streetscape character and would adversely affect the overall character of this part of the Dalkey Village Architectural Conservation Area. The development would, therefore, be contrary to Policy Objective HER13, section 12.11.3 and section 12.11.4 of the Dún Laoghaire Rathdown County

Development Plan 2022-2028. The development would adversely affect an architectural conservation area and would, therefore, be contrary to the proper planning and sustainable development of the area.

**Michael Dillon,
Planning Inspectorate**

8th February 2022