



An
Bord
Pleanála

Inspector's Report

ABP-315548-23

Development	Temporary retention permission for single storey takeaway coffee kiosk and associated site works.
Location	The Millhouse Pub, 1 Lower Kilmacud Road, Stillorgan, Co. Dublin, A94 CT88
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D22A/0819
Applicant(s)	Panther Catering Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First Party against Condition No. 2
Appellant(s)	Panther Catering Limited
Observer(s)	None
Date of Site Inspection	2 nd September 2023
Inspector	Elaine Power

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1.0 Site Location and Description

- 1.1. The subject site is located within the car park of 'The Millhouse' public house, 1 Lower Kilmacud Road in Stillorgan. The Millhouse is located on the southern side of Lower Kilmacud Road and forms an end of terrace unit in a row commercial and retail units. There is a petrol station and retail / commercial units on the opposite side of Kilmacud Road Lower. The site is located c. 200m east of Stillorgan Village. The surrounding area is suburban in nature with a mixed character of commercial, retail and residential uses.
- 1.2. The site has a stated area of 70sqm and was previously used as 7 no. car parking spaces. It currently accommodates a coffee kiosk, which was formerly a shipping container and an outdoor seating area.
- 1.3. Access to the existing site is available from both Kilmacud Road and Allen Park Road. there is a one-way system within the car park.

2.0 Proposed Development

- 2.1. The proposed development comprises the temporary retention for a period of 5 years of an existing coffee kiosk and outdoor seating area. The temporary structure is a former shipping container that has been converted to a coffee kiosk. The structure is connected to existing services within the car park of The Millhouse. The structure has a stated areas of 17sqm and a height of c. 3m. There is signage 'Morilles Coffee' and coffee cup images are above the service hatch. The existing facility offers a drive thru service. The seating area to the rear of the kiosk accommodates 3 no. picnic tables enclosed by a c. 1.1m high timber and mesh fence.
- 2.2. It is proposed to increase the hours of operation from 7am - 5pm Monday to Friday and 8am – 5pm Saturday and Sunday to 7am - 6pm Monday to Friday and 8am – 6pm Saturday and Sunday.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 2 no. conditions. Condition no. 2 is considered relevant:

2. This permission shall be for a period of two years from the date of the final grant of permission. The structure shall be removed on the expiration of this period and the site reinstated unless, prior to the end of the period, permission for its retention shall have been granted by the Planning Authority or An Bord Pleanála on appeal.

Reason: In the interest of proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The planners report dated 12th December 2022 raised no objection in principle. However, the report notes that a reduction in duration to 2 years is considered appropriate as it is consistent with the previous permission and allows the Planning Authority the opportunity to monitor the development and its impact, if any on the surrounding area.

3.2.2. *Other Technical Reports*

None

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

Reg. Ref. D20A/0861: Permission was granted in 2021 for the temporary retention for a period of 2 years for a single storey takeaway coffee kiosk (c. 17sqm) occupying 4 no. car parking spaces in the car park of The Millhouse.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown County Development Plan 2022-2028

The subject site is zoned NC – Neighbourhood Centre, with the associated land use objective to protect, provide for and/or improve mixed-use neighbourhood centre facilities. A café is permitted in principle under this zoning objective.

The subject site is located within the boundary of the Stillorgan Local Area Plan 2018-2024.

The following are considered relevant: -

Policy Objective RET7: Neighbourhood Centres: *It is a Policy Objective of the Council to support the development of the Neighbourhood Centres as the focal point of the communities and neighbourhoods they serve, by way of the provision of an appropriate mix, range and type of uses – including retail and retail services – in areas zoned objective ‘NC’ subject to the protection of the residential amenities of the surrounding area.*

Section 12.3: Neighbourhood – People, Homes and Place

Section 12.6.1: Assessment of Development Proposals in Towns, District and Neighbourhood Centres.

Section 12.6.5: Fast Food Outlets / Takeaways / Restaurants

5.2. Natural Heritage Designations

None of relevance

5.3. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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 at preliminary examination and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

This is a first party appeal against condition no. 2 only. The grounds of the appeal are summarised below: -

- The grant of permission by the planning authority is welcome and the content of the planners report is noted.
- Condition no. 2 is unwarranted and unreasonable in its limitation to the duration.
- There is precedent in the county for similar developments, details of which are provided in the appeal.
- The initial 2-year period that was sought was during the Covid-19 pandemic to regularise unauthorised development on the site. It was expected that trade would only continue until such time as restrictions were lifted and trading returned to normal.
- The kiosk has gone from strength to strength since opening in October 2020. It is a welcome addition to NC zoned lands.
- There are no third party submissions or objections.
- A 5 year period would allow the applicant to make alternative arrangements for a more permanent solution to the business model.
- The kiosk is located within a commercial car park which serves the main business premises (The Millhouse) owned by the applicant. There are no immediate third party lands which warrant any significant monitoring for the purpose of local amenity.

- The nature of the development does not differ significantly to that permitted for the previous 2 years. Given the separation distances to residential dwellings and the nature and scale of the development there are no impacts on the surrounding area.
- The traffic arrangements remain the same as previously permitted with a negligible impact on the capacity of the car park.
- The current development plan will remain unchanged for the duration of the proposed 5 year period.

6.2. **Planning Authority Response**

The response from the planning authority considers that the grounds of appeal do not raise any new matter which would justify a change of attitude to the proposed development.

6.3. **Observations**

None

6.4. **Further Responses**

None

7.0 **Assessment**

7.1. The main grounds of this appeal related to condition no. 2, which limits the duration of the permission to 2-years. I am satisfied that no other substantial planning issues arise. Appropriate Assessment requirements are also considered.

7.2. ***Condition no. 2 - Duration of the Permission***

7.2.1. The applicant applied to the planning authority for retention permission for a temporary period of 5 years for an existing coffee kiosk. The temporary structure is a former shipping container that has been converted to a coffee kiosk. The structure is connected to existing services within the car park of The Millhouse public house. The structure has a stated area of 17sqm and a height of c. 3m. There is signage ' Morilles

Coffee' and a coffee cup image above the service hatch. The existing facility also offers a drive thru service. The seating area to the side (east) of the kiosk accommodates 3 no. picnic tables enclosed by a c. 1.1m high timber fence. In total the development occupies 7 no. surface car parking spaces.

- 7.2.2. The planning authority raised no objection in principle to the development. However, Condition no. 2 of the grant of retention permission limited the life of the permission to 2 no. years. The planners report noted that a reduction in duration to 2 years was considered appropriate as it is consistent with the previous permission and allows the planning authority the opportunity to monitor the development and its impact, if any on the surrounding area.
- 7.2.3. The applicant considers that the time limitation on the development is unwarranted and unreasonable. The appeal states that the initial 2-year period that was sought was during the Covid-19 pandemic to regularise unauthorised development on the site. It was expected that trade would only continue until such time as restrictions were lifted and trading returned to normal. However, since opening the kiosk in October 2020 it has been a viable business and the applicant intends to continue operating from the kiosk.
- 7.2.4. The subject site is located within the urban area in the car park of an existing public house on lands zoned for NC – Neighbourhood Centre. A café use is 'permitted in principle' under this zoning objective. I am satisfied that the use is in accordance with the zoning objective and Policy Objective RET7 to support the development of the Neighbourhood Centres as the focal point of the communities and neighbourhoods they serve, by way of the provision of an appropriate mix, range and type of uses.
- 7.2.5. The planning authority's report notes that a 2 year duration of the permission allows for the monitoring of any potential impacts on the surrounding area. The Millhouse forms an end of terrace unit in a row commercial and retail units that front onto Kilmacud Road Lower. There is a petrol station and retail / commercial units on the opposite side of Kilmacud Road Lower. In addition, the subject site is located c. 200m east of Stillorgan Village / lands zoned District Centre, which provide a wider range of commercial and retail units.

- 7.2.6. The intended hours of operation 7am - 6pm Monday to Friday and 8am – 6pm Saturday and Sunday, which is an increase in 1 no. hour per day from the previously approved hours of the coffee kiosk. It is noted that no concerns were raised by the planning authority regarding the hours of operation.
- 7.2.7. The site is located a minimum of c. 35m from the nearest residential dwelling on Allen Park Drive. Having regard to the established pattern of commercial uses on the subject site and adjacent sites, the nature and scale of the existing use, which currently operates between 7am - 5pm Monday to Friday and 8am – 5pm Saturday – Sunday, and the sites urban location, I am satisfied that any noise, light or general disturbance generated by its continued use, and limited extended opening hours, would be within the norm of any urban area and would not negatively impact on the existing residential amenities of adjacent properties.
- 7.2.8. Due to the limited size and scale of the kiosk, its set back from the public road and its location within a car park I am satisfied that it would not negatively impact on the existing visual amenities of the area.
- 7.2.9. With regard to a potential negative impact on car parking and traffic congestion on the surrounding road network it is noted that the development occupies 7 no. car parking spaces within The Millhouse car park. In the appeal that applicant states that there is sufficient capacity (53 no. spaces) in the car park. The public house and associated car park are also within the ownership of the applicant and are professionally managed to ensure a maximum stay of 2 hours. It is also stated that the use itself does not generate a demand for car parking, as it provides a takeaway serve. The applicant also states that the use does not generate a significant number of new vehicular trips as the vast majority of customers are from passer by trade, which are already on the road network. Servicing and deliveries are by small transit vans or trucks. Having regard to the information submitted by the applicant and having carried out a site visit I am satisfied that the impact on the surrounding road network and car parking capacity is negligible. It is also noted that the planning authority raised no concerns in this regard.
- 7.2.10. The site is located within the boundary of the Stillorgan Local Area Plan. ‘The Mill House’ site is identified in the LAP as a suitable site for redevelopment. However, it is

my opinion that given the nature and scale of the development that a 5 year temporary permission would not impede the comprehensive redevelopment of the site.

7.2.11. In conclusion, having regard to the sites zoning objective, the established pattern of development in the area and to the nature and scale of the proposed development it is my opinion that the development is not out of character with the surrounding area and would not negative impact on the existing residential or visual amenities of the area. It is also my view that the development would have a negligible impact on the capacity of the surrounding road network and car parking capacity. I am also satisfied that the development would not impede the comprehensive redevelopment of the overall site, within the applicants ownership. Therefore, I have no objection to continued use of the coffee kiosk for a temporary period of 5 years.

7.3. ***Appropriate Assessment***

7.3.1. Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distances to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the 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**

I recommend that planning permission be granted subject to conditions.

9.0 **Reasons and Considerations**

Having regard to the sites urban location, the established uses within and adjacent to the subject site and the nature and scale of the development to be retained, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained and implemented 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 and the development shall be carried out and retained in accordance with the agreed particulars.

Reason: In the interest of clarity

2. The duration of the grant of permission shall expire five years from the date of this order. The use shall cease, and the structure shall be removed, and lands reinstated unless a further grant of permission has been obtained.

Reason: In the interest of clarity

3. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs including any signs installed to be visible through the windows, advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the kiosk or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

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.

Elaine Power

Senior Planning Inspector

4th September 2023