



An
Bord
Pleanála

Inspector's Report

ABP-315866-23

Development	Change of opening hours (under planning permission 20/1039) to 08.00 hrs to 20.00 hours for Thursday, Friday & Saturday's
Location	No. 7 & No. 8 Albert Terrace, Meath Road, Bray, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	22/638
Applicant(s)	Meabhhdh Kilroy
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party
Appellant(s)	Damien Richardson
Observer(s)	None
Date of Site Inspection	2 nd June 2023
Inspector	Elaine Power

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1.0 Site Location and Description

1.1. The subject site is located at Albert Terrace, Meath Road in Bray. It comprises 2 no. units, no. 7 and 8 Albert Terrace, which form part of a terrace of 3 no. properties. These units are 2-storey in height with commercial uses at ground floor level and residential uses above. No. 7 accommodates 'Glovers' coffee shop and no. 8 accommodates Meath Stores. There is paved area to the front of the units which is in use as outdoor seating.

2.0 Proposed Development

2.1. The proposed development comprises a change of opening hours from 08.00 – 18.00 approved under Reg. Ref. 20/1039 to 08.00 – 20.00 for Thursday, Friday and Saturday only.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 3 no. standard conditions.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

Planners Report 29th July 2022

The initial Area Planners report raised some concerns regarding the proposed development and recommended that further information be requested. This item is outlined below.

1. The planning authority is concerned that the proposed changes to the approved opening hours have not been justified by the applicant. The applicant is asked to provide a Planning Report justifying the changes of Condition No. 2 of Planning Reg. Ref. No. 20/1039. The justification should be laid out mindful of any impacts due to noise / lighting / car parking on the nearby residential units that may flow from the proposed changes. The applicant should also detail

the reasoning for a later Thursday night opening. If consideration of opening hours, it is important that the opening hours and days of operation of the coffee shop at 7 & 8 Albert Terrace, Meath Road, Bray and outdoor seating area (50msq) to the front of some are clearly specified.

Furthermore the planning authority notes that third parties have submitted, inter alia, information referring to the previous assessment under PRR20/1039. The planning authority welcomes an outline of changes, to be included in the aforementioned justification, specifically relevant to the development that has precipitated the requirement for extended opening houses.

Planner's Report 23rd January 2023

Following receipt of further information, the Area Planner's report concludes that proposed development is considered to be acceptable and recommended that permission be granted subject to 3 no. standard conditions.

3.2.2. **Other Technical Reports**

None

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

3 no. third party submissions were received by Damien Richardson, Nicholas Kingston and Paul Mathias. The concerns raised are similar to those of the appeal.

4.0 **Relevant Planning History**

Reg. Ref. 20/1039: Permission was granted in 2020 for the provision an outdoor seating area (50sqm) to the front. Condition no. 2 limited the hours of operation to between 08.00 and 18.00.

Reg. Ref. 18/1080: Permission was granted in 2019 for the change of use of a newsagents / grocer to coffee shop. Condition no. 2 limited the hours of operation to between 08.00 and 18.00.

Enforcement UD5266C: A Warning Letter was issued to the applicant regarding non compliance with conditions 1, 2 ,3 and 5 attached to Re. ref. 18/1080.

5.0 Policy Context

5.1. Wicklow County Development Plan 2022 - 2028

The subject site is zoned RE – Existing Residential with the associated land use objective *to protect, provide and improve residential amenities of existing residential areas*. Uses generally appropriate for residential zoned areas include houses, apartments, residential open space, education, community facilities, retirement homes, nursing homes, childcare, health centres, guest house, bed and breakfast, places of public worship, home based economic activity, utility installations and ancillary development and other residential uses in accordance with the CDP.

The plan further states that many uses exist where they do not conform to the designated zoning objective. When extensions to, or improvements of premises accommodating such uses are proposed, each shall be considered on its merits and permission may be granted where the development does not adversely affect the amenities of properties in the vicinity and does not prejudice the proper planning and development of the area.

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 third party appeal submitted by Damien Richardson against the planning authority's decision to grant permission. The main grounds of the appeal are summarised below:

- The planning history and uses on site are detailed. The site was traditionally a local shop, prior to a recent change of use to a café.
- The information submitted indicates that the development resembles a restaurant and not a shop.
- A café would normally close at 4pm. The café already has permission to open until 6pm.
- No evidence has been provided regarding a shortage of restaurants or bars in the locality.
- The proposed development is inappropriate and visually obtrusive.
- Later opening hours would lead to more traffic congestion and increase demand for on-street car parking.
- Customers drive to the café. No traffic count was provided with the application. The loss of car parking spaces to the front of the café use has exacerbated parking congestion in the area.
- Later hours would result in noise and disturbance to adjoining properties.
- There is lighting provided within the site.

6.2. Applicant Response

The response from the applicant is summarised below: -

- No. 6, 7 and 8 Albert Terrace have operated as commercial units since the 1950's. The applicant is the owner of no. 7 and rents no. 8.
- No. 7 'Glovers Cafe' sells coffee, sandwiches and treats. No. 8 'Meath Stores' sells food. The applicant also has a wine licence and sells a limited amount of wine per week. It is not intended to run a restaurant from the site. There are no facilities to cook or store hot food on the premises.
- The renovation of 'Glovers' has enhanced the shopfront and improved the streetscape. The submission includes before and after photographs of the shop fronts.
- The uses on site provide a local meeting space for the community.
- Meath Road is a public road with pay and display car parking. Spaces are not assigned to any use on the street. It is acknowledged that the surrounding road network is congested and that car parking spaces have been removed to provide cycle infrastructure in the area which have contributed to the congestion.
- The car parking area that was removed to the front and replaced with outdoor seating was never public car parking it was associated with the use on site. The removal of this area has not result in the loss of any public car parking.
- Many customers are commuters that pass by between 6pm – 8pm and have requested extended opening hours.
- It is a fact that the majority of the customer are within walking distance of the subject site.
- The appellants objections have no basis.

6.3. **Planning Authority Response**

None

6.4. **Observations**

None

6.5. Further Responses

None

7.0 Assessment

7.1. The main issue of this appeal relates to the impact on residential amenity from the extended opening hours of the existing commercial uses. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development
- Residential Amenity
- Appropriate Assessment

7.2. *Principle of Development*

7.2.1. The third party raised concerns regarding the planning history of the site and compliance with the sites zoning objective. The subject site is zoned RE – Existing Residential with the associated land use objective *to protect, provide and improve residential amenities of existing residential areas*. The existing uses on the site are generally not considered appropriate for residentially zoned land. Notwithstanding this Chapter 11 of the Bray Municipal District Local Area Plan, 2018 states that many uses exist where they do not conform to the designated zoning objective. When extensions to, or improvements of premises accommodating such uses are proposed, each shall be considered on its merits and permission may be granted where the development does not adversely affect the amenities of properties in the vicinity and does not prejudice the proper planning and development of the area.

7.2.2. The information submitted from both the applicant and the appellant indicate that no. 6, 7 and 8 Albert Terrace have been in commercial use since the 1950's. It is also noted that permission was granted (Reg. Ref. 18/1080) in 2019 for the change of use of a newsagents / grocer to coffee shop at no. 7 Albert Terrace. Therefore, I am satisfied that non-residential uses are established on this site and should, therefore, be assessed on their merits.

7.3. ***Residential Amenity***

- 7.3.1. The development proposes to increase the opening hours of the existing café and deli use at no. 7 and 8 Albert Terrace from 08.00 – 18.00 Monday – Sunday, to 08.00 – 20.00 on a Thursday, Friday and Saturday only. There is no intended change from the existing operational hours of 08.00 – 18.00 Monday – Wednesday. The appeal does not include any alterations / amendments to the uses within the site and my assessment is solely focused on the impact of the extended opening hours.
- 7.3.2. It is acknowledged that the subject site is located on a predominately residential street, However, the site is located within the urban area of Bray, c. 200m from Bray seafront and c. 250m from Bray Dart Station and Bray Station Bus Stops. The applicant states that the extended opening hours are to facilitate local customers. The third party raises concerns that the extended opening hours would negatively impact on existing residential amenities in terms of noise, lighting, disturbance and car parking.
- 7.3.3. Having regard to the established pattern of non-residential uses on the subject site, the nature and scale of the existing uses on site which currently operate between 08.00 – 18.00 Monday to Sunday and the sites urban location I am satisfied that any additional noise, light or general disturbance generated by the 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.
- 7.3.4. With regard to concerns raised regarding the negative impact on car parking and traffic congestion on the surrounding road network it is noted that the site is located within a busy urban area and that traffic congestion may be experienced. The car parking on Meath Road is restricted by pay and display parking. The spaces on the street are public spaces and can not be assigned to any single user. Due to the nature and scale of the proposed development and the availability of public car parking on the surrounding road network I am satisfied that the extended opening hours would have a negligible impact on parking in the surrounding road network.

7.4. ***Appropriate Assessment***

- 7.4.1. 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 the subject site and the nature and scale of the development 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 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 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 30th day of December 2022 by way of further information, 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.

Reason: In the interest of clarity.

2. The hours of operation shall be between 08.00 to 20.00 Thursday, Friday and Saturday and between 08.00 – 18.00 Sunday – Wednesday.

Reason: To protect the 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

6th June 2023