



An
Bord
Pleanála

Inspector's Report ABP-315957-23

Development	Change of use of former commercial premises to cafe/bistro.
Location	1B Lough Road , The Lough , Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	2241081
Applicant(s)	Ronan Power
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Micheal Hickey & Others
Observer(s)	None
Date of Site Inspection	12/12/2023
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site is located in The Lough, Cork City. The rectangular site has a high boundary wall facing (western boundary) Lough Road, with the eastern boundary facing a narrow lane providing access to Valentines Villas. Currently on site is a single storey structure in use as a coffee shop, with decking providing external seating.
- 1.1.2. A single storey dwelling lies to the south. To the south-west is the Lough, a large water body with mature, tree lines green areas, seating and pedestrian paths. The area is residential with the exception of the subject site and a hair studio to the south.

2.0 Proposed Development

- 2.1. On the 9th May 2023, planning permission was sought for the permanent continuation of a change of use of former commercial premises to a cafe / bistro (82sq.m.).

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 8th of February 2023, the Planning Authority issued a notification of their intention to GRANT permission subject to 14 no. conditions.
- 3.1.2. Conditions of note include:
 - 4: hours of opening
 - 5: times for deliveries
 - 6: cycle parking provision
 - 7: no vehicular parking

3.2. Planning Authority Reports

- 3.2.1. **Drainage Report:** No objection subject to conditions.
- 3.2.2. **Environment Report:** No objection subject to conditions.
- 3.2.3. **Traffic Regulation & Safety:** Further information needed regarding workplace travel plan, bike parking details, details of deliveries.

3.2.4. **Planning Report:** Principle of proposed development is acceptable. Illegal parking is a matter for enforcement not planning. Details required about staff, travel, noise & waste. Further Information recommended.

3.2.5. **Acting SEP:** Concur with recommendation to request Further Information.

3.3. **Prescribed Bodies**

3.3.1. None on file.

3.4. **Third Party Observations**

3.4.1. A number of submissions to the Planning Authority raise concerns about traffic, parking, litter, incomplete plans, misleading description in public notices, noise, hours of trading,

4.0 **Further Information**

4.1.1. On the 4th July 2023, the applicant was requested to address the following:

1: nature and extent of proposed café / bistro,

2: site layout and plans of existing on site,

3: travel arrangements for staff,

4: Noise sources

5: management of waste

6: travel / Traffic details.

4.1.2. On the 5th September, the applicant responded to the Planning Authority with the following information:

1: proposed to offer salads & pizzas, food consumed internally & externally, no external speakers or amplifiers, retain existing operating hours 08.30- 19.00 M to F, 09.00-19.00 sat and sun,

2: site plan submitted

3: three staff members live locally, 3 no. staff Bicycle spaces to rear. Customers generally local,

4: Details of equipment noise levels submitted.

5: Commercial waste collected

6: three staff members live locally, 3 no. staff Bicycle spaces to rear.

7: Milk delivery twice a week, food and coffee delivery once a week, hygiene cleaning delivery once a month. All have delivered for last three years without causing obstruction.

4.2. **Reports on File following submission of Further Information**

4.2.1. **Environment Report:** Clarification of Further Information required regarding generation of waste and noise levels.

4.2.2. **Traffic: Regulation & Safety Report:** No objection subject to 1 no. condition prohibiting vehicular parking.

4.3. **Clarification of Further Information**

4.3.1. On the 14th October 2022, the applicant was invited to clarify certain matters regarding food to be consumed, advertising, a Waste Management Plan, bicycle parking.

4.3.2. On the 5th January 2023, the applicant responded to the CFI request, stating that food will be consumed internally and externally, no advertising or boundary changes are proposed, three staff with bicycle parking at the rear, commercial waste, recycling and glass collection from a named operator twice a week.

4.3.3. **Environment Report:** no objection subject to 6 no. conditions.

4.3.4. **Planning Report:** matters have been satisfactorily addressed. Recommendation to grant permission subject to 14 no. conditions.

4.3.5. **SEP:** Concurs with recommendation to grant subject to conditions.

5.0 **Planning History**

5.1.1. Planning Authority reg. ref. **1838091**: permission granted for change of use of existing commercial premises to a café and extension to the side of the property for customer toilet and lobby. Retention permission is further sought for the timber porch and decking to the front of the building.

6.0 Policy Context

- 6.1.1. Since the Local Authority issued a Notification of Decision to Grant Permission for the proposed development, a new development plan has been prepared and adopted for the City. The relevant development plan to this assessment is the Cork City Development Plan 2022-2028, which was adopted on 27th June 2022 and came into effect on 8th August 2022.

6.2. Cork City Development Plan 2022 -2028

- 6.2.1. The subject site is zoned ZO1 Sustainable Residential Neighbourhoods. Zoning Objective 1: To protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses.
- 6.2.2. **ZO 1.3** Primary uses in this zone include residential uses, crèches, schools, home-based economic activity, open space and places of public worship,
- 6.2.3. **ZO 1.4** Uses that contribute to sustainable residential neighbourhoods are also acceptable in principle in this zone provided they do not detract from the primary objective of protecting residential amenity and do not conflict with other objectives of this Development Plan. Such uses include but are not limited to: small-scale local services including local convenience shops.
- 6.2.4. **Section 11.185** of the Plan addresses cafes/restaurants, stating:
The positive contribution of cafés and restaurants and the clusters of such uses to the vitality of the City is recognised. The following shall be considered in assessing applications for cafés/ restaurants:
1. The need to retain, protect and strengthen the vitality and multi-use function of designated centres;
 2. The number/frequency of cafés / restaurants in the area;
 3. The effect of noise, fumes, hours of operation, and general disturbance on nearby amenities and residents. Full details of any external extractor fans/vents and hours of operation of the development shall form part of a planning application;
 4. Traffic implications including adequate and safe delivery areas;
 5. Waste storage facilities;
 6. Any proposed signage/advertising/lighting shall be suitable and unobtrusive.
- 6.2.5. Section 11.186 addresses hot food takeaways / fast-food restaurants.

6.3. Natural Heritage Designations

6.3.1. The subject site is approx. 3.4km west of the Cork Harbour SPA (004030)

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. An appeal by 5 no. named residents of Valentines Villas, The Lough, Cork has been made against the decision of the Planning Authority to grant permission.

7.1.2. The grounds of the appeal can be summarised as follows:

- The operation of the café over the past 5 no. years has damaged the residential amenity of the area.
- The Planning Authority have failed to protect residential amenity. The 19 no. conditions of the parent permission which sought to protect residential amenity have not been attached to the new permission.
- The houses of Valentines Villas have narrow front gardens only. These are disturbed by music, industrial noise and smells. Until conditions were imposed by the Planning Authority, music disturbed residents all day.
- The narrow stretch of Lough Road is inappropriate for takeaway business due to obstruction to traffic.
- If permission is granted, a condition restricting use to a cafe only must be attached. Sale of food must be limited to pizza and salad with all food consumed on the premises, and no music must be permitted.
- There was no mention of a bistro in the application. Additional change of use was never part of the temporary permission. The extent of development is not clear.
- It is suggested that a 'bistro' is a means to sell alcohol. This is a material change from the original application and should be rejected.
- The applicant operated a café without permission in 2018. Enforcement action arose.

- The use of the café should have ceased on the 2nd July 2022, as per condition 2(b) of 18/38091. A tardy and incomplete application was made. The appellants were not permitted to comment on the Further Information or the CFI.
- Therefore it is not sufficient to rely on the applicants word. Conditions to protect residential amenity must be attached so that further breaches do not occur.
- The traffic report is inaccurate as there is no doubt that traffic has increased since the café opened in 2018. The appellants see customers park illegally to enter the café. Photos submitted.
- The traffic report is flawed as it states that there is two-hour parking, when the parking is one-hour. The provision of food will lengthen the customers time in the café.
- There is no on-street parking, only double yellow lines.
- Delivery trucks cause dangerous obstruction, making entry to and egress from Valentines Villas hazardous.
- All of these reasons are why the applicant was refused permission for a café a few yards away (11/35091).
- The Planning Authority must put conditions in place to control traffic and parking.
- There was less pollution when the site was operated by a car mechanic. The suggestion that a café / bistro with industrial equipment is the opposite of the appellants lived experience.
- Marked increase in litter since the café opened. That will increase.

7.2. **Applicant Response**

7.2.1. An agent for the applicant responded to the third-party appeal. The response can be summarised as follows:

- The business will be run in a manner that will contribute positively to the amenity of The Lough. It is in the applicants best interest to build a positive relationship with neighbours.
- The applicants do not wish to play live or recorded music on site.
- There are no plans for late opening hours or the sale of alcohol.

- Milk / Coffee / Food is delivered three times a week. No industrial equipment will be delivered.
- The café provides a community resource, employment opportunities, adds vibrancy to the area and can stimulate the economy.

7.3. Planning Authority Response

7.3.1. None on file.

7.4. Observations

7.4.1. None on file.

8.0 Assessment

8.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Impact on Neighbourhood

8.2. Principle of Development

8.2.1. The appellant submits that permission exists for a café only – not a café / bistro and that the public notices were misleading.

8.2.2. For clarity, permission was granted in 2018 (Planning Authority reg. ref. 1838091) granted for a change of use of existing commercial premises to a café and extension to the side of the property for customer toilet and lobby. Retention permission was further sought for the timber porch and decking to the front of the building. Condition no. 2(b) of that permission required that use of the café would cease within three years of the date of the final grant, namely 13/08/2022.

8.2.3. The subject application was lodged with the Planning Authority on the 9th of May 2022, within the time period of the permitted use. The subject application clearly states that permission is being sought for a change of use from the former

commercial premises to a café / bistro. The subject application does not seek permission for the continuation of the former use (namely a café only) but seeks full permission for a café / bistro. The applicant has confirmed that no alcohol will be served and has provided details of the hot food that will be available. I am satisfied that no ambiguity exists and that all parties to the application are in full possession of details of the proposed development.

8.3. Impact on Neighbourhood

- 8.3.1. The provision of a small-scale local services such as a neighbourhood café / bistro helps ensure the vibrancy and vitality of a neighbourhood. I note section ZO1.1 of the 2022 development plan which states that the vision for sustainable residential development in Cork City is one of sustainable residential neighbourhoods where a range of residential accommodation, open space, local services and community facilities are available within easy reach of residents. The proviso is however, that these uses must not detract from the primary objective of the zone, which is to protect residential amenity (section ZO1.4).
- 8.3.2. The appellants raise concerns about the impact of the proposed development on traffic, litter, noise and residential amenity.
- 8.3.3. In terms of deliveries, details of the schedule is provided and is acceptable. Details of the food to be served is provided and is acceptable. I do not agree with the appellants suggestion to restrict food / coffee to being consumed internally only (ie. no take away).
- 8.3.4. In terms of traffic, I note the submission of the applicant that none of the three staff members arrive by car. Staff bicycle parking is provided. Inappropriate and / or illegal parking is a matter for traffic enforcement. The provision of a local coffee shop will benefit locals but also those who visit the area to enjoy the amenity that is The Lough. Ensuring that those visitors do not park in such a way that adversely affects the residents can be achieved by way of condition and the subsequent enforcement of that condition. Should the Board decide to grant permission, it is recommended that a condition be attached prohibiting parking on site.
- 8.3.5. I note the applicants confirmation that no music will be played at the café / bistro.

8.3.6. I am satisfied that the proposed development complies with the zoning objective for the area and is in keeping with the pattern of development in the area.

8.4. **Appropriate Assessment**

8.4.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area and proximity to the nearest European site, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

9.0 **Recommendation**

9.1. I recommend permission be GRANTED for the following reasons and considerations and subject to the following conditions:

10.0 **Reasons and Considerations**

10.1. Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, and the provisions of the Cork City Development Plan 2022-2028 including Section 11.185 (Cafes/Restaurants), it is considered that, subject to compliance with conditions below, the proposed development as modified by the conditions below, would not seriously injure the residential amenities of the area or of property in the vicinity in terms of noise, loss of privacy, overbearing or overshadowing impacts nor would it represent a traffic safety issue in the area. The proposed development for which permission is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 **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 4th day of July 2022 and the 10 th day of October 2022 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
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	<p>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 café/bistro shall not operate outside of the following hours:</p> <p>Monday to Friday 08:00am to 09:00pm</p> <p>Saturday and Sunday 08:00am to 10:00pm</p> <p>Reason: In order to protect the amenities of residential property in the vicinity</p>
3.	<p>Drainage arrangements, including the disposal of surface water, 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>A plan containing details for the management and safe disposal of all waste (and, in particular, recyclable materials) within the proposed development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities, shall be prepared by the local authority prior to commencement of development and shall be placed on the file and retained as part of the public record.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
5.	<p>There shall be no vehicular parking or parking for customers provided on site.</p> <p>Reason: In the interest of traffic safety</p>

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.

Gillian Kane
Senior Planning Inspector

18 January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	Change of use of former commercial premises to café / bistro		
Development Address	1B Lough Road, the Lough, Cork		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)			
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		n/a	EIA Mandatory EIAR required
No		n/a	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	No EIAR or Preliminary Examination required
Yes		n/a	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	n/a	Preliminary Examination required
Yes	N/a	Screening Determination required

Inspector: _____**Date:** 18/01/2024