



An
Bord
Pleanála

Inspector's Report

ABP-318098-23

Development	Retention of coffee pod and all associated site works.
Location	Poole Terrace, Dolphin's Barn, Dublin 8, D08 T68C
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4090/23
Applicant(s)	D8 Coffee
Type of Application	Retention Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	D8 Coffee
Observer(s)	Pat Hiney
Date of Site Inspection	15 th August 2024
Inspector	Bernadette Quinn

1.0 Site Location and Description

1.1. The appeal site, with a stated area of 7.5 sq.m. is located on a laneway off Poole Terrace on Dolphins Barn Street which provides access to a commercial yard and the rear of a number of properties on Poole Terrace. The commercial yard appears to be in use as an auto repair shop. The laneway is located between the side gables of no. 3 Poole Terrace which is a dwelling and No. 4 Poole Terrace which contains a barber shop. Dolphins Barn Street is a regional road with a core bus corridor and cycle lane in both directions where it passes the appeal site. The Coombe Hospital is located on the opposite side of Dolphins Barn Street.

2.0 Proposed Development

2.1. The development for which retention permission is sought comprises a converted container with cedar cladding which has a flat roof 2.35 m high and extending to 2.6m on the front elevation where it incorporates a sign projecting above the roof. The structure has a floor area of 7.5 sq m and is used for selling takeaway coffee and refreshments.

3.0 Planning Authority Decision

3.1. Decision

On 30th August 2023 the Planning Authority refused permission for one reason as follows:

The coffee Pod is located on unzoned lands comprising an access laneway serving a number of adjoining dwellings and zoned commercial lands. The development is considered to be haphazard and unacceptable as the siting of the coffee pod at this location would result in potential conflict between pedestrians and vehicular traffic. The development is considered contrary to pedestrian and traffic safety and contrary to policy SMT11 and SMT18 of the Dublin City Development Plan 2022-2028, and would set an undesirable precedent. It is therefore considered that the development would be injurious

to the amenities of the area and as such, would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report reflects the decision to refuse permission. The main points in the report include:

- The Transport Planning Division has raised concerns regarding the impact on vehicular access/egress from the lane and conflict between vehicles and pedestrians and customers.
- The proposal would constitute random and haphazard development and is not an acceptable or compatible use at this location.

3.2.2. Other Technical Reports

Drainage Division: No objection subject to condition.

Environmental Health: No objection subject to conditions.

Transportation Planning: Further information required in relation to increasing setback from the public footpath and from the junction between the lane and Dolphin's Barn; demonstration of sight lines and measures to address potential conflicts between customers and vehicles.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Three observations received which raise issues in relation to restriction of access to the commercial yard to the rear of 1 Poole Terrace and to the rear of houses on Poole Terrace; inadequate infrastructure; traffic safety; and visual impact on Poole Terrace.

4.0 Planning History

None.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Dublin City Development Plan, 2022-2028 is the operational development plan for the area. The appeal site is located on unzoned land. Section 14.3.2 of the Development Plan states that development proposals in respect of unzoned lands will be considered in accordance with the policies and objectives of the plan. Regard will also be had to their compatibility with adjacent land-uses and zonings. Adjoining lands are zoned Z4 - Key Urban Villages and Urban Villages, with the objective to provide for and improve mixed-services facilities.

5.1.2. Section 15.14.7.2 relates to Restaurants/ Cafes and recognises the positive contribution of café and restaurant uses and the clusters of such uses to the vitality of the city and outlines criteria for consideration in considering applications for restaurant.

5.1.3. Chapter 8 Sustainable Movement and Transport includes the following relevant policies:

Policy SMT11 - Pedestrian Network To protect, improve and expand on the pedestrian network, linking key public buildings, shopping streets, public transport points and tourist and recreational attractions whilst ensuring accessibility for all, including people with mobility impairment and/or disabilities, older persons and people with children.

Policy SMT18 - 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.

5.1.4. The site is located within an area designated 'Record of Monuments and Places (RMP)'.

5.2. **Natural Heritage Designations**

The appeal site is located approximately 350m north of the Grand Canal proposed NHA and 5km west of South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC.

5.3. **EIA Screening**

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A first party appeal can be summarised as follows:

- The development serves a need in the area with customers coming from the Coombe Hospital opposite the appeal site.
- The planning authority raised no concerns in relation to visual impact or car parking.
- The kiosk could be located 1-2m further back to address sightlines.
- Poole Terrace is a commercial area and the development plan states that on un-zoned lands regard will be had to adjacent land uses and zonings. The kiosk is consistent with surrounding commercial uses.
- Any traffic entering Poole Terrace is using the garage to the rear.
- Conditions could be attached in relation to relocation of the kiosk, management of queuing and signage.

6.2. Planning Authority Response

A response received requests that the decision of the planning authority be upheld and that if permission is granted a condition be attached requiring a section 48 development contribution.

6.3. Observations

One observation received from the owner of no. 3 Poole Terrace which is located to the south of the appeal site. The issues raised can be summarised as follows:

- The observer is currently sale agreed to purchase no. 4 Poole Terrace and the electricity and water supply serving the coffee pod run along the entrance to 4A Poole Terrace.
- The location of the coffee unit restricts access to the rear of houses on Poole Terrace.
- Invalid applicant name on planning application.
- The appeal site is located on a public road and consent is required from DCC which has not been included in the application.
- Fire hazard as a result of blocking the lane.
- Concerns in relation to traffic safety and disposal of waste water and surface water.
- Lack of car parking and toilet facilities to serve the development.
- Visual impact on Poole Terrace.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issue in this appeal are as follows:

- Principle of Development

- Impact on Visual and Residential Amenities
- Traffic Safety
- Other Issues

7.2. Principle of Development

7.2.1. The Development Plan states that development proposals in respect of unzoned lands will be considered in accordance with the policies and objectives of the plan and with regard to compatibility with adjacent land-uses and zonings. The appeal site is surrounded by residential and commercial uses. The first party argue that adjoining land uses are commercial and that the proposal is in keeping with such land uses and therefore is acceptable having regard to the considerations set out in the development plan. However, I consider the location of the structure on an access laneway constitutes a haphazard form of development and as such I do not consider the principle of development acceptable at this location.

7.3. Impact on Visual and Residential Amenities

- 7.3.1. The observer to the appeal raises concerns in relation to the visual impact of the development. The pattern of development surrounding the appeal site comprises a mix of uses including residential in the form of two storey terraces of houses and apartments as well as a variety of commercial uses. Having regard to the scale of the development to be retained I do not consider it would result in an unacceptable negative impact on the visual amenities of the area.
- 7.3.2. The observer to the appeal raises concerns in relation to the location of electricity and water services which are attached to no. 4A Poole Terrace and also questions how wastewater could be dealt with. I consider that in the event of a grant of permission these matters could be dealt with by a condition requiring agreement with the planning authority in relation to drainage such that it would not give rise to unacceptable impacts on adjoining properties.
- 7.3.3. Concerns are raised in the observation in relation to access to the rear of properties on Poole Terrace. The laneway on which the coffee pod is located provides pedestrian access to the rear of dwellings on Poole Terrace with a door leading from the laneway to a rear extension at no. 3 and a pedestrian entrance to the rear yard at no. 4. Whilst the structure itself does not directly obstruct these accesses, I consider

its position on the laneway has the potential to interfere with access to the rear of these properties resulting in a negative impact on the existing residential amenity.

7.4. Traffic Safety

- 7.4.1. The laneway on which the appeal site is located has a width of approximately 6.7m and terminates at a commercial yard, the gates to which are located approximately 13m from the junction with Dolphin's Barn Street. The laneway does not contain road markings or a footpath. At the time of my site visit a number of cars were parked in the laneway close to the entrance to the yard and in the vicinity of the coffee pod. The planning authority's transportation report raises concerns in relation to vehicular access/egress from the lane and conflict between vehicles and pedestrians and customers as a result of the location of the structure. The report notes that the lane is private, measures 6.7m wide and that the footpath to the front of the site is 2.8m wide with the coffee pod structure set back 400mm from the back of the footpath. The report notes that the structure reduces the width of the junction to c. 3.6m and that the remaining width is insufficient to facilitate two way traffic accessing the lane and that the location of the structure appears to conflict with sight lines for vehicles exiting the lane and reducing visibility of pedestrians on the footpath and customers of the coffee pod. The report recommends that further information be requested and that consideration be given to increasing the setback from the public footpath and junction with Dolphin's Barn.
- 7.4.2. I agree with the planning authority that the development to be retained, due to its location and the resulting reduction in width of the laneway has the potential to create a traffic hazard as a result of restricting sightlines entering and exiting the laneway. This has the potential to result in a conflict with pedestrians using the footpath as well as customers accessing the coffee pod. I also have concerns that the reduced width of the lane way does not allow for two way traffic, including traffic to and from the commercial yard to the rear, and as such has the potential to result in vehicles reversing from the laneway onto Dolphin's Barn Road which appears to be a heavily trafficked road and which contains a bus lane and cycle lane located to the front of the appeal site. As a result I consider the development has the potential to result in a traffic hazard for pedestrians, cyclists and vehicles. The first party states no objection to relocating the coffee pod further back into the laneway as suggested in the planning authority's transportation report. I consider such an

approach would not address the concerns raised above in relation to the development and as such I do not consider this appropriate.

- 7.4.3. I note the planning authority's reason for refusal considers the development would be contrary to policy SMT11 and SMT18 of the development plan. Both of these policies relate to pedestrian accessibility and seek to create a safe and accessible pedestrian environment. Having regard to the potential impacts of the development as outlined in section 7.4.2 above I agree with the planning authority reason for refusal in this regard.

7.5. **Other Issues**

- 7.5.1. The observer to the appeal raises concerns in relation to the validity of the planning application having regard to the applicant name. I note that the Planning Authority deemed the application to be valid in accordance with the Planning and Development Regulations 2001 (as amended) and I consider that the application contains sufficient information to enable assessment.
- 7.5.2. The observer states that the laneway is a public road and that consent is required from Dublin City Council. I note the report of the planning authority's Transport Planning Division which states that the road is private and I note that the planning authority accepted the documents submitted with the application in relation to site ownership.

8.0 **AA Screening**

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located approx. 5 km from the South Dublin Bay and River Tolka Estuary SPA (site code 004024) and the South Dublin Bay SAC (000210).

The proposed development comprises the retention of a container converted for the purposes of a coffee pod. No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site.

The reason for this conclusion is as follows:

- The nature and scale of the structure to be retained and the serviced nature of the site.
- The location and distance from nearest European site and the lack of any hydrological connectivity between the application site and the SAC/SPA.
- Taking into account screening determination by the Planning Authority.

I consider that the development to be retained would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9.0 Recommendation

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

10.0 Reasons and Considerations

The development to be retained is located on unzoned lands on which the Dublin City Development Plan 2022-2028 states that development proposals will be considered in accordance with the policies and objectives of the development plan. The location of the development on an access laneway which serves adjoining dwellings and commercial development is considered haphazard as it would restrict access to adjoining properties and has the potential to give rise to a conflict between pedestrian and vehicular traffic on the laneway and on Dolphins Barn Street and would be contrary to policy SMT11 and SMT18 of the Dublin City Development Plan 2022-2028. Furthermore, it is considered that the development would set an undesirable precedent for similar haphazard development and would be contrary to the proper planning and sustainable development 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.

Bernadette Quinn
Planning Inspector

26th August 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318098-23		
Proposed Development Summary	Retention of coffee pod and all associated site works.		
Development Address	Poole Terrace, Dolphin's Barn, Dublin 8, D08 T68C		
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)		Yes	X
		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		Class.....	EIA Mandatory EIAR required
No	X		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)
		N/A	Conclusion
No			No EIAR or Preliminary Examination required
Yes	X	Class 10 (b)(iv) – Urban development which would involve an area greater than 2 hectares in the case of a business district, 10	Proceed to Q.4

		hectares in the case of other parts of a built-up area and 20 hectares elsewhere.		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-318098-23	
Proposed Development Summary	Retention of coffee pod and all associated site works.	
Development Address	Poole Terrace, Dolphin's Barn, Dublin 8, D08 T68C	
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development. Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>Proposal for a coffee kiosk in an existing urban area is not considered exceptional in the context of the existing urban environment.</p> <p>The development would be connected to the public wastewater and waste services.</p>	<p>No</p> <p>No</p>
<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<p>The proposed development seeks permission for a coffee kiosk on a site measuring 7.5 sq.m. which is not considered exceptional in the context of the existing urban environment.</p>	<p>No</p>
<p>Location of the Development Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically</p>	<p>No, South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210) and located approximately 5 kilometres north east of the site.</p>	<p>No</p>

<p>sensitive site or location, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<p>The Grand Canal proposed NHA is 350m north of the appeal site.</p> <p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance</p>	
Conclusion		
<ul style="list-style-type: none"> • There is no real likelihood of significant effects on the environment. • EIA is not required. 		

Inspector:

Date:

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)