



An
Bord
Pleanála

Inspector's Report

ABP- 318266-23

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| Development | Change of use of butchers shop to cafe |
| Location | 69 Glasthule Rd., Glasthule, Glenageary, Co. Dublin |
| Planning Authority | Dun Laoghaire Rathdown County Council |
| Planning Authority Reg. Ref. | D23A/0230 |
| Applicant(s) | Butlers Chocolates |
| Type of Application | Permission |
| Planning Authority Decision | To grant permission subject to conditions |
| Type of Appeal | Third Party v Decision |
| Appellant(s) | Darren Lakes and Grainne Lakes |
| Observer(s) | none |
| Date of Site Inspection | 11 th January 2024 |
| Inspector | Brendan McGrath |

1.0 Site Location and Description

1.1. The site is part of a small local service centre in the south Dublin suburbs, centred on a busy radial road (R119). The butchers shop, now closed (and residential unit overhead with front door on Glasthule Road) is part of a 2-storey, row of shops, close to the junction of the Glasthule and Adelaide Roads. There is a short laneway at the back of the site providing vehicular access to the premises fronting onto the Glasthule Road and to residential premises on Link Road and Marine Parade. The appellants live in one of those houses. There is a large expanded restaurant business (71-73 Glasthule Road) which appears to be the main business using the rear laneway.

2.0 Proposed Development

2.1. The proposal is to convert the butchers shop to a café and build a single storey extension (67m²) with outdoor seating area, to the rear. The proposal includes a new shopfront. A parking space is proposed to the rear. The existing first floor flat is not part of the proposal.

2.2. Following a further information request the applicant submitted a detailed shop-front design (without shutter), details of opening hours (730 -6pm and occasional late opening to 9 on Thursdays and Fridays, detailed waste management plans and a sustainable surface water drainage system incorporating a permeable surface.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 7 conditions of a standard nature

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Key issues identified in planning report are compliance with policy, visual impact, residential amenity, access/parking and drainage

- Proposal in compliance with development plan policy- acceptable in principle
- New shop front may be acceptable but further information required
- The proposal including rear extension and outside seating area in the context of the site location would not adversely affect residential amenity
- The overall visual impact acceptable
- Further information requested in respect of details of shop front, opening hours details of ventilation including noise assessment, waste management
- Consideration of proposal in context of previous refusal of permission for a mixed use development on the site (D22A/0317). Considered the scale of the previous application to have been excessive while the current proposal would be in keeping with the local context
- AA screening – determined that proposal would not significantly impact on a Natura 2000 site
- EIA screening- determined that there is no real likelihood of significant effects and the need for screening can be excluded at preliminary examination.

3.2.2. Other Technical Reports

3.2.3. Transportation Planning- requiring evidence of right of way to rear, covered cycle parking

3.2.4. Environment Section- requiring construction and demolition waste management plan, construction management plan, operational waste management plan

3.3. Third Party Observations

- Two observations, one generally supportive, the other objecting.
- The one observation requests a restriction on the use of the flat roof of the extension, restrictions on external ventilation and restrictions on opening hours.
- The second observation objects to the proposal, stating there is no right-of-way to the rear, car parking provision is inadequate, potential loss of privacy, water run-off from the site is an issue

4.0 Planning History

D22A/0317 Change of use of butchers to café, construction of a 2 and 3 storey rear extension to create café with terrace at ground floor and 2-bedroom apartment with external balcony first second and third floor levels. Permission refused because it was considered that the scale of the rear extension was excessive and failed to have due regard to the amenities of adjacent property and would set an undesirable precedent.

5.0 Policy Context

5.1. Development Plan

The relevant development plan is the Dun Laoghaire Rathdown County Development Plan 2022-2028. The site is zoned NC 'to protect, provide for and/or improve mixed use neighbourhood centre facilities.

Development plan policy includes Policy Objective RETZ 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 use including retail and retail services- in areas zoned NC subject to the protection of the residential amenities of the surrounding area'.

The site is outside Flood Risk zones A and B but beside areas identified in the SFRA as at risk of wave overtopping and pluvial flooding.

5.2. Natural Heritage Designations

There are no designations in the immediate vicinity.

5.3. EIA Screening

It was decided that the need for screening could be excluded at preliminary examination and as such a screening determination was not required.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal has been lodged by Doyle Kent Planning Partnership on behalf of Darren and Grainne Lakes who own a nearby house with access to the laneway behind the subject site. 7 grounds of appeal are put forward. They are as follows:-

1. The applicants do not have consent to use the rear access lane,
2. Inadequacy of the lane for traffic,
3. Inadequate parking provision,
4. Inadequate information about waste management,
5. Inadequate information about noise disturbance,
6. Inadequate provision in relation to drainage and flooding, and
7. Inadequate consideration of construction impacts.

6.2. Applicant Response

None received

6.3. Planning Authority Response

The local planning authority has referred the Board to its planner's previous report, on file.

6.4. Observations

None

7.0 Assessment

7.1. Each of the grounds of appeal put forward are considered below. In addition I assess the principle of the development, which has not been raised by the appellants, and also Appropriate Assessment.

7.2. Principle of the development

I consider the principle of the development under consideration is in accordance with the zoning objective and policy of the county development plan for Glasthule and, in

general terms, the proposal in accordance with proper planning and sustainable development

7.3. Consent to use the rear access

Right of access is not primarily a planning matter. Section 34(13) of the Planning and Development Act 2000 states that 'A person shall not be entitled solely by reason of a permission under this section to carry out any development.' From a site inspection I found no evidence to indicate that the laneway would not be available for use by the occupiers.

7.4. Traffic and parking

There is space for one car space and for a covered cycle rack to the rear. It seems unlikely that service traffic generated by the proposal would cause significant traffic problems.

7.5. Waste management

A waste management plan has been provided by way of a further information response. Butlers Chocolates have stated that they operate a segregated waste management system. Waste will be collected twice a week or more frequently if necessary.

7.6. Noise disturbance

By way of further information it was clarified that there would be no cooking or food preparation on the premises, therefore no need for mechanical extraction. There will be an air handling system for the café which will only operate during café opening hours, 8 to 6. There will be no cold or freezer rooms, therefore no external condensers making noise.

7.7. Drainage and flooding

By way of a further information response the applicant has provided a plan for surface water run-off.

7.8. Construction impacts

Condition 3 of the grant of permission addresses construction impacts.

7.9. Appropriate Assessment (AA)

Having regard to nature of the proposal – a change of use in a neighbourhood centre and modest scale of the development, no AA issues arise and it is considered that the proposed 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 for the reasons and considerations set out below

9.0 Reasons and Considerations

Having regard to its location of the in Glasthule local service centre, the zoning objective in the Dun Laoghaire and Rathdown County Development Plan 2022-2028 of NC - 'to protect, provide for and/or improve mixed use neighbourhood centre facilities', the modest scale of the development proposed and the limited impact of the proposal on residential amenity, it is considered that, subject to appropriate conditions, the development would be in accordance with proper planning and sustainable development of the area.

10.0 Conditions

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| 1. | <p>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 25th day of August 2023 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</p> <p>Reason: In the interest of clarity.</p> |
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| 2. | <p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, any change to the display panel, including any increase in the number of posters to be displayed, the scrolling mechanism or the internal/external illumination, shall be the subject of a separate application for permission to the planning authority.</p> <p>Reason: To enable the planning authority to assess the impacts of any such changes on the amenities of the area.</p> |
| 3. | <p>On-site parking shall be for staff use only.</p> <p>Reason: in the interest of traffic safety</p> |
| 4. | <p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</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.

Brendan McGrath
Planning Inspector

26th. January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

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|---|---|----------------------|---|
| An Bord Pleanála Case Reference | ABP- 318266-23 | | |
| Proposed Development Summary | Change of use of butchers shop to cafe | | |
| Development Address | 69 Glasthule Rd., Glasthule, Glenageary, Co. Dublin | | |
| 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 | |
| | | 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) |
| No | X | N/A | No EIAR or Preliminary Examination required |
| Yes | | Class/Threshold..... | Proceed to Q.4 |

4. Has Schedule 7A information been submitted?

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| No | X | Preliminary Examination required |
| Yes | | Screening Determination required |

Inspector: _____**Date:** _____