



An
Bord
Pleanála

Inspector's Report

ABP-318426-23

Development	Change of use of Unit 1 from retail to office use.		
Location	Unit 1 Cnoc Dubh, Main Street, Ballyboughal, Co. Dublin.		
Planning Authority Ref.	F23A/0399		
Applicant(s)	Richard Quinn.		
Type of Application	Permission	PA Decision	Grant
Type of Appeal	Third Party	Appellant	Cathal McGee
Observer(s)	Ballyboughal Community Council		
Date of Site Inspection	17/05/2024	Inspector	Terry O' Leary

Context

1. Site Location / and Description. The subject site is located to the northern periphery of Ballyboughal village in north County Dublin. The subject unit is situated in the south-western corner of the Cnoc Dubh development adjacent to the Naul Road (R108) and the declared site area is c. 0.0072Ha.

2. Description of development. The change of use from retail to café use in this unit that comprises of c. 72.4 sq. meters.

3. Planning History.

F22A/0138 – Permission granted for the change of use of ground floor unit from retail to veterinary physiotherapy treatment facility with hydrotherapy pool with associated alterations to the internal layout at Unit 4A The Square, Cnoc Dubh, Ballyboughal, Co. Dublin.

F17A/0184 & ABP Ref: PL06F.249179 – Permission granted for a mixed-use development comprising the subject unit of this planning appeal.

4. National/Regional/Local Planning Policy

4.1 National Planning Framework

Project Ireland 2040 comprises the National Planning Framework (NPF) and the National Development Plan (NDP). The NPF is the Government's high-level strategic vision for shaping future growth and development in the entire country over a 20-year period. The NPF sets out a targeted pattern of growth for the Eastern and Midlands Region and Dublin City and these growth figures inform the delivery of national policy expressed in the NPF and the delivery of the Regional Spatial and Economic Strategies.

4.2 Regional Spatial & Economic Strategy 2019 - 2031

Regional Spatial and Economic Strategy 2019–2031 The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly area sets out a strategic plan and investment framework to shape development and manage planning in the Region. The RSES translates the NPF objectives and the growth and settlement strategy at the regional level, ensuring coordination between the NPF and each County Development Plan. The RSES identifies the region's challenges as the need to sustain economic growth whilst transitioning to a low carbon society and the requirement to align population growth with the location of homes and jobs whilst creating healthy attractive places and an enhanced quality of life. The RSES is underpinned by three cross cutting principles; healthy placemaking, climate action and economic opportunity, which is incorporated into all facets of our new Development Plan. The growth strategy for the Region supports the continued sustainable growth of Dublin and its transition to a low carbon, climate resilient and environmentally sensitive region in accordance with the Metropolitan Area Strategic Plan (MASP), which forms part of the RSES.

4.3 Fingal Development Plan 2023 – 2029 (Current Plan)

The subject site has a zoning objective as follows;

‘RV – Rural Village’ and this objective seeks to “Protect and promote the character of the Rural Village and promote vibrant community in accordance with and approved land use plan, and the availability of physical and community infrastructure”. The following policies and objectives from the Fingal Development Plan (2023-2029) are relevant to the assessment of this development;

Objective CSO68 – Rural Villages

Manage the development of Rural Villages within the RV zoning boundaries and strengthen and consolidate their built form providing a suitable range of housing as an alternative to housing in the open countryside.

Objective CSO79 – Promotion of Attractive and Vibrant Villages

Promote attractive and vibrant villages ensuring their sustainable expansion and development at a level appropriate to and integrated with the existing village while meeting the socio-economic and civic aspirations of the community and affording maximum environmental protection.

Policy CSP40 – Sustainable Expansion & Development

Objective DMSO6 – Change of Use in Urban & Village Centres

Objective DMSO8 – Contemporary Shopfront Design

Objective DMSO10 – Corporate Logos, Lighting, Design and Colour

5. Natural Heritage Designations

There are no protected structures / NIAH registered buildings or recorded national monuments within close proximity of the sites according to the Fingal County Council GIS system.

Development, Decision and Grounds of Appeal

6. PA Decision.

Fingal County Council granted planning permission for the proposed development on the 17th October 2023 subject to 11 conditions.

7(a). Third-Party Appeal of Cathal McGee

Cathal McGee of 3 The Square, Cnoc Dubh, Ballyboughal, Co. Dublin submitted a third-party appeal which was received by An Bord Pleanála on the 9th November 2023 against the decision of Fingal County Council to grant planning permission F23A/0339.

Grounds of appeal:

- Concerned that the Fingal County Council Chief Executive's Order notes that no submissions / observations were received on planning permission F23A/0339.
- Of utmost concern is the proposed kitchen ventilation system that faces onto the appellant's property and the associated odours and grease that will blow towards their garden rendering it unusable.
- Concerned about family health risks associated with the ventilation system discharges.
- There is no provision for waste storage and concerned about the potential for rodent and insect infestation.
- Suggests that a full Environmental Impact Assessment should be carried out.
- Outlines that no engineering design has been incorporated with the planning application to address increases in foul sewerage discharges emanating from the proposed café.
- Concerned about traffic volumes and lack of parking in the vicinity.
- Encloses a photo profile of parking issues in the area presently.
- Outlines that the proposed café will need to be served by one parking space per 15 sq. meters of floor area or five spaces in total and that this is not catered for in the vicinity.
- Suggests that ad-hoc and inappropriate parking will occur if a café is permitted in the subject property.
- Cites a lack of fire precautions in the planning permission application.

- Is concerned that additional noise will emanate from a café vis-a-viz what would be expected from a retail unit.
- Suggests that the location of the proposed bike rack will pose a significant health and safety risk to pedestrians.
- States that the planning permission drawings and maps submitted as part of the planning application do not accurately reflect the proposed development and should be checked against site location map provided.
- Does not request an oral hearing.

7(b). Submission by Ballyboughal Community Council

An Bord Pleanála received a submission from Ballyboughal Community Council on the 29th November 2023. The submission can be summarised as follows;

- The submission does not comment on the particulars of the appeal or on the merits of the planning application F23A/0399.
- Trusts that An Bord Pleanála will deal with any valid concerns raised in the appeal.
- Cites the concern of the Ballyboughal Community Council of the potential loss of the café in Ballyboughal village and the associated negative impact on employment opportunities.
- A café is essential for the social function of Ballyboughal village.
- The café provides an opportunity for passing patrons to stop and contribute to the village.
- References the negative impacts of the loss of the café in the nearby Naul village.
- Requests that An Bord Pleanála expedite the appeal in the interest of preserving the local amenity and employment opportunity.

8. PA Response

The Planning Authority submitted a written submission which was received by An Bord Pleanála on the 05/12/2023 and this submission confirmed the following;

- The planning authority has reviewed the documents lodged as part of the third-party appeal in relation to Planning Reg. No. F23A/0399.

- The contention by the appellant in their appeal that their objection / submission was not considered in the planning decision is factually incorrect.
- The third-party objection was received on foot of significant further information being lodged by the applicant as set out under Article 35 of the Planning & Development Regulations and that the matters raised in this objection were considered in full by the planning authority in the determination.
- The planning authority remains of the view that the proposed change in use is limited in nature and extent and subject to the compliance with the conditions attached to the grant of planning would not have a detrimental impact on the surrounding area or impact residential amenity.
- Requests that An Bord Pleanála upholds the decision to grant permission and in the event that the decision is upheld that a Section 48 Development Contribution Scheme should be applied thereon.

Environmental Screening

9. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

10. AA Screening

Having regard to the modest nature and scale of development and the absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as 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.

2.0 Assessment

The main issues for consideration in this appeal can be considered under the following headings;

- Principle
- Impact on Surrounding Properties
- Other Issues

2.1 Principle

Section 14.4.4 of the Fingal Development Plan (2023-2029) requires that planning applications for change of use in all urban and village centres will be assessed on their positive contribution to diversification of the area together with their cumulative effects on traffic, heritage, environment, parking and local residential amenity. The concerns of the appellant centre on a range of issues in relation to the change of use from retail to café as alluded to in Section 14.4.4 but in my opinion this proposed change of use is minor in nature and in compliance with Objective DMSO6. I do not believe that the threshold for an Environmental Impact Assessment has been reached as suggested in the appeal and the concerns outlined about ventilation discharges can be actively managed through standard planning permission conditions. I also do not believe that the floor area of the café is to a scale that would create the traffic and parking issues as suggested in the appeal.

2.2 Impact on Surrounding Properties

The issues raised in the third-party appeal have been considered in the planning determination and I believe the conditions applied in the grant of planning F23A/0399 will ensure that the concerns of the appellant are managed appropriately to ensure that there is not a negative impact on the amenity of the surrounding properties.

2.3 Other Issues

I have reviewed the plans and particulars submitted for planning permission F23A/0399 and have not found them to be inaccurate or inconsistent with the site layout plan as alluded to in the appeal letter. All drawings and plans are to a defined scale and are accurately dimensioned.

3.0 Recommendation

Having regard to the foregoing I recommend that planning permission be granted for the reasons and considerations set out below.

4.0 Reasons & Considerations

1. The proposed development is in accordance with Objective DMSO6 of the Fingal Development Plan (2023-2029) and is in accordance with the proper planning and sustainable development of the area.
2. The proposed change of use is not considered to reach the threshold requiring an Environmental Impact Assessment and the proposed site location is suitable for a café.

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.

Terry O' Leary

Planning Inspector

11/09/2024