



An
Bord
Pleanála

Inspector's Report ABP-321257-24

Development

Retention permission for the re-arrangement of outdoor seating (existing seating is inconsistent with that permitted under reg. ref.: F17A/0398). Planning permission for new timber fencing, entrance arch and signage and all ancillary works.

Location

Minetta Delicatessen, 1A Howth Road, Sutton, Dublin 13, D13 X799.

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F24A/0782

Applicant(s)

Nicola & Deborah Hughes.

Type of Application

Planning Permission.

Planning Authority Decision

Refuse Permission.

Type of Appeal

First Party

Appellant(s)

Nicola & Deborah Hughes.

Observer(s)

No Observers.

Date of Site Inspection

3rd of February 2025.

Inspector

Elaine Sullivan

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The subject site is located at Sutton Cross, on the northern side of the R106 – Station Road and R105 – Howth Road junction. It has a stated area of 0.019 hectares and comprises a single storey building in use as a delicatessen with external seating to the front. The building is located on the western corner of a row of commercial buildings and is set back approximately 8 metres from the front building line of the adjoining building. The neighbouring business units include a coffee shop, a butcher shop and a retail bank. There is a wide expanse of public realm to the front of all units. A line of demountable bollards defines the area between the public landing and the public footpath.
- 1.2. Adjoining the site to the west is a public car park with end-on parking spaces directly facing the western site boundary. A rendered blockwork wall of 1.125m in height (as per the application) forms part of the western boundary of the site with the remainder of the site enclosed by a low-level timber panel fence. This fence also encloses the area to the front of the site and the eastern boundary. External seating is provided within the enclosed area and to the front of the delicatessen. On the occasion of the site visit, none of the adjoining units had external seating in place and there were no other boundaries or enclosures around the public landings.

2.0 Proposed Development

- 2.1. Planning permission is sought for to retain the re-arrangement of outdoor seating, (which is inconsistent with that permitted under Reg. Ref: F17A/0398). Planning permission is sought for,
 - (a) a new painted timber boundary fence to the western boundary to a height of 1.4 metres to be located inside existing boundary wall to part of the western boundary,
 - (b) a 1.4 metre high painted timber fence to part of the southern boundary,
 - (c) a new painted timber entrance arch at the entrance to the outdoor seating area from Howth Road,
 - (d) new signage comprising of panel with embossed lettering stating 'Minetta Deli' (non-illuminated) of circa 0.45 sq.m to the new timber entrance arch and a backlit window sign of circa 0.15 sq.m to the existing shopfront glazing, and

(e) all associated and ancillary works.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was refused by the Planning Authority (PA) for the following reasons,

1. *The subject site is located within an area of the county with the land-use zoning objective TC, 'Town and District Centre' in the Fingal Development Plan 2023-2029, the objective of which seeks to protect and enhance the special physical and social character of town and district centres and provide and/ or improve urban facilities. The development fails to comply with Objective SPQHO5 – Amenity of Town and Village Centres and Objective DMS02 Evaluation of Signage Proposals of the Fingal Development Plan 2023-2029 as it fails to enhance the amenity of the existing town centre, by not minimising clutter and by the proliferation of street furniture. The development as proposed is inconsistent with the open character of the area. In addition, the materials, location, size, colour, height and scale of the boundary treatment and archway is considered to be unacceptable and detracts from the visual amenity of the area. The proposed development is inconsistent with the proper planning and sustainable development of the area.*
2. *Under F17A/0398 permission was granted for the retention of the existing delicatessen/cafe, exterior signage to front and side elevations, awning to front elevation inclusive of external seating area to front of property. Under the grant of permission, the existing boundary wall was considered to have an appropriate length of c.6.7m from the café/deli shopfront to delineate the outdoor seating area. Condition 4 was attached to that permission which stated: The development shall be amended as follows:*
 - a) *The outdoor seating area shall be reduced in depth to measure a maximum of 6.7m from the front façade of the subject café/deli: generally aligning with the existing western boundary wall. The outdoor*

seating area and associated boundary treatment shall not project beyond a distance of 6.7m from the front façade of the café/deli as measured from Drawing no. MD_PP_03 The proposed development in its current format would contravene materially Condition 4 attached to an existing permission (F17A/0398) for development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer included the following,

- The works proposed are acceptable within the TC – Town Centre zoning objective.
- The temporary nature of the outdoor seating at adjoining properties is noted and contrasted with the semi-permanent nature of the furniture at the subject site which is bolted to the ground.
- The PO considered that the proposal for a boundary fence of c. 14m in length along one boundary, a new timber archway with advertising and parasol umbrellas would be contrary to Objective SPQHO5 by failing to enhance the amenity of the existing town centre by not minimising clutter and by the proliferation of street furniture.
- The proposed boundary to the seating area is forward of the building line of the parade of shops and would have an impact on the visual amenity of the area.
- The PO considered that the proposed signage is of poor quality and is not in accordance with Objective DMSO2 – Evaluation of Signage Proposals. (Note – it is considered that this reference should be DMSO12 which relates to signage)
- The development as proposed would materially contravene Condition No. 4 of permission Ref. F17A/0398.

3.2.2. Other Technical Reports

- Transportation and Planning Section – No objection.

- Water Services – No objection.
- Conservation Officer – The site adjoins the boundary of the Sutton Cross ACA. The proposed illuminated signage in the window is not supported and the proposed seating, boundary fence and signage are excessive and inappropriate. The proposal is not in accordance with the provisions of Section 14.4.7 of the Development Plan. It is noted that the canopy on the front elevation is not as per the drawings submitted with F17A/0398.

3.3. Prescribed Bodies

- No submissions.

3.4. Third Party Observations

One observation was received by the PA from the adjoining business, Insomnia Coffee Company. The submission states that the development as proposed has insufficient toilet facilities to accommodate the number of customers to be accommodated by the seating area as well as staff and that the design and detail of the proposal is excessive and would block light to the adjoining coffee shop.

4.0 Planning History

F17A/0398 – Planning permission granted for a café and delicatessen, exterior signage to the front and side, awning to the front and external seating to the front of the property. Condition No. 4 of the permission required that,

The outdoor seating area shall be reduced in depth to measure a maximum of 6.7m from the front façade of the subject café/deli: generally aligning with the existing western boundary wall. The outdoor seating area and associated boundary treatment shall not project beyond a distance of 6.7m from the front façade of the café/deli as measured from Drawing no. MD_PP_03.

Reason: In the interests of visual amenity.

5.0 Policy Context

5.1. Development Plan

The subject site is zoned TC – Town Centre, the objective of which is to ‘*Protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities.*’.

The site is also in a Framework Area – FP10B, as identified on Zoning Map 10 of the Development Plan.

14.5.5 – Shopfront Design –

Table 14.1 – Shopfront Design – all proposals should consider the streetscape, the building itself and the design detail of the shop. It is important to be aware of the street’s character and to consider the effect the design might have on the streetscape. Shopfronts should reflect the historic urban grain, building widths and contribute to good design and traditional character of the town or village... The effect the shopfront will have on the building itself should also be considered as well as the adjoining buildings and shopfronts. Good shopfront design should be sensitive to the character of the building, particularly where it is within an Architectural Conservation Area, and should maintain its traditional frontage.

14.4.6 – Other Signage -14.4.7 – Street Furniture – The provision of tables and chairs on public footpaths should not obstruct ease of movement by pedestrians, including those with mobility impairments, the young, or persons using buggies/prams. Barriers around such seating areas should be of a suitable material, lightweight and easily demountable.

14.4.8 – Building Lines - the Council will seek to ensure that development is not carried out in front of established building lines, or in a position that would conflict with a building line.

Objective HCAO41 – Modern Street Furniture - Sensitively design, locate and rationalise modern street furniture and elements such as utility boxes, cables, bins, bike racks, poles, wires, antenna and signage. Defunct or obsolete telephone boxes/kiosks should be removed rather than replaced

- The reasons for refusal refer to the following objectives -

SPQHO5 – Amenity of Town and Village Centres - Enhance the amenity of existing town and village centres, minimising clutter and proliferation of street furniture and provide guidance on public realm design, including wirescape, shopfront design, street furniture, climate resilient and pollinator friendly planting, signage and the adequate provision of bins and recycling options.

DMSO12 - Evaluate signage proposals in relation to the surroundings and features of the buildings and structures on which signs are to be displayed, the number and size of signs in the area (both existing and proposed) and the potential for the creation of undesirable visual clutter. (This objective was referred to as DMSO2 in the decision but was referenced as relating to the Evaluation of signage proposals).

- The grounds of appeal refer to the following objective -

EEO45 – Tourism and Economic Growth - Promote and facilitate tourism as one of the key economic pillars of the County's economy and a major generator of employment and to support the provision of necessary significant increase in facilities such as hotels, aparthotels, tourist hostels, cafes and restaurants, visitor attractions, including those for children

5.2. Natural Heritage Designations

5.2.1. No designations apply to the subject site.

5.3. EIA Screening

5.3.1. The development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended), and therefore is not subject to EIA requirements. (See Form 1 Appendix 1).

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal include the following,

- The delicatessen is at a disadvantage by virtue of its location on a corner, adjacent to a public parking area and set back behind the primary building line on Sutton Cross.
- The proposal is in accordance with Objective EE045 which seeks to promote tourism through the provision of service industry businesses including cafes and restaurants.
- Existing units to the west have outdoor seating that extends to the edge of the footpath which is a logical approach and provides activity and surveillance on the street.
- Regarding the first reason for refusal, the applicant seeks to clarify that the proposal does not comprise of any street furniture, the bollards referred to in the report have not been installed by the applicant and there is no objection to the removal. No parasols are proposed.
- The delicatessen is significantly different in scale footprint and positioning to the adjoining commercial units on the terrace. The building plot is effectively at the end of the terrace, abutting a public car park and is of a different character. Therefore, a different approach to the exterior arrangement is warranted.
- The proposal has been designed to marginally increase the outdoor seating area, make the seating area more attractive and usable and to provide an appropriate entrance feature by way of an archway entrance with modest signage.
- It is put forward in the appeal thus the adjoining Insomnia unit has very prominent signage.
- Should the board have any concerns in relation to the quality of the proposal, the applicant has no objection to the inclusion of a condition requiring an agreement with the PA regarding the paint or treatment of the boundary, for soft landscaping and/or the omission of the windows sign.
- The applicant argues that the second reason for refusal is superfluous. The applicant seeks retention of the current arrangement which is acknowledged

in the application as non-compliant with Condition No. 4 of F17A/ 0398. The purpose of the application is to regularise the situation.

6.2. Planning Authority Response

A response from the Planning Authority (PA) was received on the 28th of November 2024 and includes the following,

- The development was assessed against the policies and objectives of the Fingal Development Plan 2023-2029, existing government policy. The impact on visual and residential amenities and the character of the area was also considered.
- The development as proposed is inconsistent with the open character of the area. The materials, location, size, colour, height and scale of the boundary treatment and archway are considered unacceptable and would detract from the visual amenity of the area.
- The proposed development is inconsistent with proper planning and sustainable development of the area and would contravene objective SPQHO5 - Amenity of Town and Village Centres.
- It is requested that the Board uphold the decision of the PA.

6.3. Observations

- No observations were received.

7.0 Assessment

7.1. The issues raised can be addressed under the following headings.

- Principle of Development
- Impact on Amenity

7.2. Principle of Development

- 7.2.1. The proposed development is compatible with the TC – Town Centre zoning objective in the Fingal Development Plan 2023-2029. The development relates to external works and alterations, including signage and external seating, to a café / delicatessen which was permitted under PA Ref. F17A/0398. Having regard to the nature of the works proposed to an established and permitted use in an area zoned town centre, I am satisfied that the proposal is acceptable in principle.

7.3. Impact on Amenity

- 7.3.1. Having visited the site and reviewed the documentation, I consider that the main issues in the appeal relate to the impact of the proposal on the general amenity of the area and its impact on the visual amenity of the area. The location of the site adjacent to the Sutton Cross Architectural Conservation Area is noted and will also be assessed.
- 7.3.2. The site is located at the edge of a neighbourhood centre at a busy junction. I note the planning history for the site which includes permission for outdoor seating to the front of the business. In the subject proposal the applicant is seeking to extend the length of this area by approximately 3.5m which would roughly align with the line of the public footpath which is marked by a row of demountable metal bollards. Two large concrete planters are in place to the front of the site and are located behind the pedestrian traffic lights.
- 7.3.3. The grounds of appeal argue that Objective EEO45 of the Development Plan is relevant as the overall development would contribute to tourism and economic growth. I accept that the external seating area would contribute to the overall vitality and character of the area, and I am satisfied that the seating itself would not impact on the overall amenity of the neighbourhood centre. All external seating proposed would be positioned behind the bollards and the planters in the public realm. I accept the argument made by the applicant that external seating enlivens the street and provides additional facilities for customers. On this basis I am satisfied that the seating would have not result in a negative impact on the overall amenity of the neighbourhood centre at this location. I note that the report of the PO states that the adjoining businesses also use external seating which is removed at close of

business. When I carried out the site visit, no seating in place to the front of the adjoining businesses. However, images of the streetscape from Google Maps indicate that seating was previously in place to the front of both buildings. However, the nature of the subject proposal is very different.

7.3.4. I would share the concerns of the PA regarding the proliferation of street furniture and the visual impact that has on the overall streetscape. The report of the PO notes the nature of the seating in the adjoining buildings which is temporary in nature and removable. The existing boundary treatment to the subject development comprises a permanent blockwork extending to a length of c. 7.5m from the front wall of the building. The remainder of the boundary treatment comprises a timber fence which extends past the front of the building line established by the terrace of buildings to the west and encloses a part of the public landing. The proposed development would raise the level of the fencing to 1.4m and would result in a permanent enclosure of the public realm on the western corner of the terrace. This arrangement would be contrary to the existing open character and arrangement of the streetscape at this location. I would agree with the opinion of the PO that it would have a negative visual impact on the streetscape by virtue of the additional of unnecessary street furniture. Furthermore, whilst a provision is made to protect the public footpath through existing bollards and planters, the extended seating area and permanent boundary could result in an obstruction or impediment to movement on busy days or where a number of people are waiting to use the pedestrian traffic lights to the front of the property. On this basis, I consider that the development is not in accordance with Objective SPQHO5, which seeks to enhance the amenity of town and village centres.

7.3.5. Development Plan guidance on shopfronts and signage is set out in Section 14.5.5 – Shopfront Design and in Table 14.1 – Shopfront Design Guidance and Section 14.4.6 – Other Signage. The Development Plan recommends that the new shopfronts and/or signage should be considered within the context of the overall receiving environment including adjoining buildings and the streetscape. I consider that the proposed archway signage is excessive in scale and design. It would project forward of the established building line and would have no relationship with the existing building or the adjoining buildings. The nature of the development which is akin to a stand-alone sign would not be in keeping with the overall advice of the

Development Plan as contained in Table 14.4.6 as its location forward of the building line would create undesirable visual clutter in the streetscape and would be out of keeping with the existing character of the streetscape.

- 7.3.6. The subject site is not within the Sutton Cross Architectural Conservation Areas but it is in close proximity to its boundary which adjoins the western side of the public car park beside the deli. The PA's Conservation Officer did not support the proposed development and noted that neon signage is to be avoided in Architectural Conservation Areas and that the Dutch style canopy is not acceptable in the *Malahide Public Realm Strategy Design Guide for Shopfronts*. I consider these elements of the proposal to be minor in nature and I am satisfied that they would not have a significant impact on the character of the ACA. However, I accept that these elements contribute to the overall character of the development which is out of character with the existing pattern of development, and which would result in a negative visual impact on the streetscape as a whole.

8.0 AA Screening

- 8.1. I have considered the application seating and signage for a commercial development at Sutton Cross in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The subject site is located in an urban area, is serviced by public water and wastewater services and is c. 230m to the north of North Bull Island SPA (Site Code -004006) and North Dublin Bay SAC (Site Code – 000206) and c. 290m to the south of Baldoyle Bay SAC (Site Code – 000199) and Baldoyle Bay SPA (Site Code – 004016).
- 8.3. The proposed development comprises external seating to an existing delicatessen along with boundary treatment to the seating area, new signage and an entrance arch.
- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. 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 small-scale nature of the works proposed,
- The lack of connections between the site and the nearest European site, and,
- The screening determination by PA.

8.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

8.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that planning permission be refused for the development.

10.0 Reasons and Considerations

1. Having regard to the nature of the proposal for an extension to an external seating area, with new boundary treatment, signage and canopy, it is considered that the development would result in a negative visual impact on the streetscape by virtue of its location, design, and scale. The proposal would also fail to enhance the amenity of the town centre area by contributing to the proliferation of visual clutter in the streetscape. Therefore, the development would be contrary to the guidance contained in Section 14.4.6 of the Fingal Development Plan 2023-2029 and in particular with Objectives SPQHO5 and DMSO12 as they relate to the amenity of town centres and signage 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.

Elaine Sullivan
Planning Inspector

3rd of February 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321257-24		
Proposed Development Summary	<p>(a) a new painted timber boundary fence to the western boundary to a height of 1.4 metres to be located inside existing boundary wall to part of the western boundary,</p> <p>(b) a 1.4 metre high painted timber fence to part of the southern boundary,</p> <p>(c) a new painted timber entrance arch at the entrance to the outdoor seating area from Howth Road,</p> <p>(d) new signage comprising of panel with embossed lettering stating 'Minetta Deli' (non-illuminated) of circa 0.45 sq.m to the new timber entrance arch and a backlit window sign of circa 0.15 sq.m to the existing shopfront glazing, and</p> <p>(e) all associated and ancillary works.</p>		
Development Address	Minetta Delicatessen, 1A Howth Road, Sutton, Dublin 13		
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	Tick if relevant and proceed to Q2.
		X	
		No	Tick if relevant. 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)?			
Yes		State the Class here.	Proceed to Q3.

No	X		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	N/A	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	N/A		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	N/A	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	N/A	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes	N/A	Screening Determination required

Inspector: _____ Date: _____