

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

Reg. Reference: SD22A/0012 **Application Date:** 17-Jan-2022
Submission Type: New Application **Registration Date:** 17-Jan-2022

Correspondence Name and Address: Michael Finnan Lower Friarstown, Bohernabreena, Dublin 24

Proposed Development: New single storey café and external toilet block; change of use of existing hardstanding area on site and increasing area of hardstanding to form a public car park; upgrading of existing septic tank on a site to a new mechanical waste water treatment system and percolation area, and alteration of existing vehicular access to site.

Location: Lower Castlekelly Road, Glenasmole, Dublin 24.

Applicant Name: Ronan Gough

Application Type: Permission

(CM)

Description of Site and Surroundings:

Site Area: Stated as 0.4028ha

Site Description:

The site currently accommodates a car park and café accessed from Lower Castlekelly Road, sitting within this higher part of the Bohernabreena valley. The area is framed by the Dublin Mountains on 3 sides, with Spinkeen, Killakee, Kippure, Seefingen and Corrig Mountains visible to the east, south and west. The site rises away from the roadside and to the south generally. The valley sides depress into the Bohernabreena reservoirs and the Dodder River, which is located to the west of the site, also runs through the base of the valley to the west of the reservoirs.

Site Visit: 07/03/22

Proposal:

New single storey café and external toilet block; change of use of existing hardstanding area on site and increasing area of hardstanding to form a public car park; upgrading of existing septic tank on a site to a new mechanical waste water treatment system and percolation area, and alteration of existing vehicular access to site.

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

Zoning:

The site is subject to the land-use zoning objective 'HA-DM – High Amenity Dublin Mountains Area' – “To protect and enhance the outstanding natural character of the Dublin Mountain Area”.

NB: The site is located within the catchment of the Bohernabreena/Glenasmole Reservoir as illustrated in Schedule 4 of the South Dublin County Development Plan 2016 – 2022. The site is considered to be

Consultations:

Environmental Services	No objection, subject to conditions.
Public Realm	No objection, subject to conditions
Roads	Recommends Refusal.
Public Realm	Requests additional information.
Heritage Officer (in-person)	Recommends Refusal or Request for Additional Information.

External

An Taisce	Supportive.
Irish Water	Refer to EHO
HSE Environmental Health Officer	No objection, subject to conditions.

SEA Screening

The site is located in the High Amenity Dublin Mountains zoning area.
The site is located in close proximity to the Glenasmole Valley Special Area of Conservation.
The site is located in close proximity to the Wicklow Mountains Special Area of Conservation.
The site is located in close proximity to the Wicklow Mountains Special Protection Area.

Submissions/Observations /Representations:

None received.

Relevant Planning History:

NB: References to the 'overall site' below describe the subject site of this application (identified in red line boundary on Site Layout Plan) and the adjoining lands to the south-east. A field boundary previously divided these plots but in the last decade works have taken place in tandem and the overall site appears to operate as one.

SD15A/0124 on the Overall Site – SDCC **refused** permission for new storey and a half dwelling **house** on footprint of original dwelling house on site, with new bored well and packaged waste water treatment system and percolation area; alteration of existing vehicular access to site and partly setting back existing front site boundary for vision splays to site front.

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

Reasons for Refusal can be summarised as:

- Non-compliance with High Amenity Dublin Mountains housing policy (local need, local employment, visual impact)
- Visual impact on preserved views and landscape
- Uneconomic provision of services and precedent for similar developments.
- Poor percolation characteristics of the soil. Site cannot be drained satisfactorily.

The Planner also noted that the original dwelling on the site was not intact, and proof of its prior existence not conclusive, and that the proposal was assessed as a new house, rather than a replacement house.

SD15A/0344 on the Overall Site – SDCC **refused** permission for new storey & a half dwelling **house** on footprint of original dwelling house on footprint of original dwelling house on site, with new bored well and packaged waste water treatment system and percolation area, and for alteration of existing vehicular access to site and partly setting back existing front site boundary for vision splays to site front. A Natura Impact Statement has been lodged with this planning application.

Reasons for refusal were:

- Dublin Mountains Housing policy
- Regional planning guidelines
- Preservation of views in the Dublin Mountains
- Demand for uneconomic provision of services
- High water table and risk of water pollution

SD16A/0347 (ABP Ref. PL06S.247795) on the Overall Site – An Bord Pleanála **refused** permission (upholding a decision of SDCC) for new single storey **bungalow house** on footprint of original dwelling house on site, with new bored well and packaged waste water treatment system and percolation area, and alteration of existing vehicular access to site and partly setting back existing front site boundary for vision splays to site front.

Reasons for Refusal were:

1. The site is located in the Dublin Mountain Zone where it is the policy of the planning authority, as set out in the South Dublin County Council Development Plan 2016-2022, 'to protect and enhance the outstanding natural character of the Dublin Mountains' and to strictly control the development of new or replacement housing. It is also in an area identified as being under strong urban influence in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government 2005. It is considered that the applicant does not come within the scope of exceptional circumstances outlined in Policy H23 Objective 1 set out in the development plan for a house in this area. The proposed development would,

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

therefore, materially contravene the development plan and be contrary to the proper planning and sustainable development of the area.

2. The proposed dwelling by reason of, (a) its location in an area of outstanding natural character as part of the Dublin Mountains which is visible from the surrounding hinterland (b) the Landscape Capacity, and (c) PL06S.247795 Board Direction Page 2 of 3 the Specific Objective 'To Preserve Views' across the site from the Lower Castlekelly Road would detract significantly from the open character and natural beauty of the surrounding Dublin Mountain area. The development would be contrary to Policy (HCL7), and the zoning objective 'To protect and enhance the outstanding natural character and amenity of the Dublin Mountains' as provided for in the South Dublin County Council Development Plan 2016-2022. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
3. On the basis of the information submitted with the application and appeal, the Board is not satisfied that the subject site is suitable for the safe disposal of foul effluent arising from the proposed development. Accordingly, it is considered that the proposed development would be prejudicial to public health, would give rise to a serious risk of water pollution and would be contrary to the proper planning and sustainable development of the area.

Relevant Enforcement History:

There are two **active** enforcement files relating to lands on or adjacent to the subject site:

1. S7945 dating from 2018, relating to 'the erection of a structure on the lands without planning permission'.
2. S8694 dating from 2021, relating to 'unauthorised change of use of land to car park'.

Pre-Planning Consultation:

PP106/21 with Colm Maguire, Executive Planner. Consultation by email and read as follows:

Land-Use Zoning

The site is zoned "HA-DM" – "To protect and enhance the outstanding natural character of the Dublin Mountains Area."

- Café/restaurant is 'open for consideration' under the site zoning. As per section 11.1 (ii) of the County Development Plan:
"Land uses that are listed as 'open for consideration' in the land use zoning tables may be acceptable to the Planning Authority subject to

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

detailed assessment against the principles of proper planning and sustainable development, and the relevant policies, objectives and standards set out in this Plan.

Proposed uses in this category will be subject to full assessment on their own merits and particularly in relation to their impact on the development of the County at a strategic and a local level. Such uses may only be permitted where they do not materially conflict with other aspects of the County Development Plan.”

- As this is in the high amenity zone, and is an ‘open for consideration’ use, the overall zoning objective will be of paramount importance. Therefore if development does not enhance or protect the outstanding natural character of the area, it is unlikely to be considered acceptable.
- Furthermore, if site cannot be accessed safely without loss of biodiversity/green infrastructure/natural character, development here is unlikely to be considered acceptable.

Planning History

- Site appears to have vehicular access and structures that do not have benefit of planning permission. It is possible these are exempt (not the subject of this consultation).
- Aerial maps show vegetation loss and provision of hard standing (without planning permission) since 2014.
- In making an application, you should set out the changes to the site since 2014 and seek retention permission where necessary for any development that is not exempted development.

Key Considerations

- Likely that the Planning Authority will seek replanting on the site to restore lost biodiversity and green infrastructure due to works in recent years. See Chapter 8 of the South Dublin County Development Plan 2016 - 2022 which contains objectives relating to green infrastructure. It is recommended but not compulsory to consult with SDCC Public Realm Department in advance of lodging a planning application.
- The Roads Department will assess if the provision of a café on the site is safe. The site is accessed via a laneway which appears to have a carriageway width of approx. 4.5m. Recommended but not compulsory to consult with SDCC Roads Department in advance of lodging a planning application.
- Table 11.23 of the South Dublin County Development Plan 2016 - 2022 indicates that 4 no. car parking spaces could be accommodated for a café of 67.5 sqm.

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

- Bicycle parking should be provided as per table 11.22 of the plan. The applicant should therefore provide details of staffing and seating levels.
- Due to zoning objective, hard standing on the site should be restricted to the areas required for car parking / bicycle parking only. The rest should be given over to planting / green infrastructure.

Other Considerations

- Consider use of integrated constructed wetlands to deal with surface water run-off and effluent.
- Include Site Characterisation Report and necessary design details / calculations if proposing septic tank or attenuation tank.
- HSE Environmental Health Officer will assess foul water management, but SDCC Public Realm Department may advise use of natural wetlands on-site in the interests of natural amenity.
- Submit Arboricultural Assessment if any trees/hedgerows are proposed for removal.

Application Details

- Show existing and proposed layouts.
- Show details of any buildings on-site: plans and elevations required. Sections also required for proposed new buildings.
- Show carriageway width and visibility splays for access road.
- Provide written rationale for the location of a café at this site. Identify any tourist routes/attractions or trails, etc., which the proposed development might interact with.

Relevant Policy in South Dublin County Council Development Plan (2016 – 2022):

Chapter 2 Housing

Section 2.5.4

Policy H23 Rural Housing in HA – Dublin Mountains Zone

Objective 2

To generally prohibit development within restricted areas identified on the Bohernabreena/Glenasmole Reservoir Restricted Areas Map contained in Schedule 4.

Section 2.5.8 Rural House & Extension Design

Policy H27 Rural House & Extension Design

It is policy of the Council to ensure that any new residential development in rural and high amenity areas, including houses and extensions are designed and sited to minimise visual impact on the character and visual setting of the surrounding landscape.

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

H27 Objective 1:

Ensure that all new rural housing and extensions within areas designated with Zoning Objective 'RU' (to protect and improve Rural Amenity and to provide for the development of Agriculture), Zoning Objective 'HA-DM' (to protect and enhance the outstanding natural character of the Dublin Mountains Area), Zoning Objective 'HA-LV' (to protect and enhance the outstanding character and amenity of the Liffey Valley) and Zoning Objective 'HA-DV' (to protect and enhance the outstanding character and amenity of the Dodder Valley):

- Is designed and sited to minimise impact on the landscape including views and prospects of natural beauty or interest or on the amenities of places and features of natural beauty or interest including natural and built heritage features; and
- Will not have a negative impact on the environment including flora, fauna, soil, water (including ground water) and human beings; and
- Is designed and sited to minimise impact on the site's natural contours and natural drainage features; and
- Retains and reinstates traditional roadside and field boundaries; and
- Is designed and sited to circumvent the need for intrusive engineered solutions such as cut and filled platforms, embankments or retaining walls; and
- Would comply with Code of Practice Wastewater Treatment Systems Serving Single Houses, EPA (2009) or other superseding standards; and
- Would not create or exacerbate ribbon or haphazard forms of development.

Chapter 4 Economic Development and Tourism

Section 4.5.0 Tourism and Leisure

Policy ET5 Tourism Infrastructure

Policy ET6 Greenways, Trails and Loops

Policy ET7 Leisure Activities

Policy ET8 Heritage, Culture and Events Tourism

Chapter 7 Infrastructure & Environmental Quality

Section 7.1.0 & Policy IE1 Water Supply & Wastewater

IE1 Objective 6:

To protect the natural resources of the County which are the foundation for the Green Infrastructure network and a basis for growth and competitive advantage in the tourism, food and fisheries sectors.

Section 7.2.0 & Policy IE2 Surface Water and Ground Water,

It is the policy of the Council to manage surface water and to protect and enhance ground and surface water quality to meet the requirements of the EU Water Framework Directive.

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

IE2 Objective 7

To generally prohibit development within restricted areas identified on the Bohernabreena/Glenasmole Reservoir Restricted Areas Map contained in Schedule 4.

Chapter 8 Green Infrastructure

Policy G1 Overarching

Section 8.1.0 & Policy G2 Green Infrastructure Network

Section 8.2.0 & Policy G3 Watercourses Network

Section 8.3.0 & Policy G4 Public Open Space Hierarchy and Landscape Setting

G4 Objective 4

To minimise the environmental impact of external lighting at sensitive locations within the Green Infrastructure network to achieve a sustainable balance between the recreational needs of an area, the safety of walking and cycling routes and the protection of light sensitive species such as bats.

Section 8.4.0 & Policy G5 Sustainable Urban Drainage Systems

G5 Objective 1

To promote and support the development of Sustainable Urban Drainage Systems (SUDS) at a local, district and county level and to maximise the amenity and biodiversity value of these systems.

Chapter 9 Heritage, Conservation and Landscapes

Policy HCL1 Heritage, Conservation and Landscapes

Section 9.1.1 & Policy HCL2 Archaeological Heritage

Section 9.2.0 & Policy HCL7 Landscapes

HCL7 Objective 2

To ensure that development is assessed against Landscape Character, Landscape Values and Landscape Sensitivity as identified in the Landscape Character Assessment for South Dublin County (2015) in accordance with Government guidance on Landscape Character Assessment and the National Landscape Strategy.

Section 9.2.1 Views and Prospects

Table 9.2: Prospects to be Preserved and Protected

Policy HCL8 Views and Prospects

HCL8 Objective 1

Section 9.2.3 & Policy HCL9 Dublin Mountains

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

Section 9.3.0 Natural Heritage Sites

Section 9.3.1 Natura 2000 Sites

Table 9.3 Natura 2000 Sites

Policy HCL12 Natura 2000 Sites

Section 9.3.2 Natural Heritage Areas

Table 9.4 Proposed Natural Heritage Areas

Policy HCL13 Natural Heritage Areas

Section 9.3.5 & Policy HCL15 Non-Designated Areas

Section 9.4.0 Public Rights of Way and Permissive Access Routes

Policy HCL16 Public Rights of Way and Permissive Access Routes

Chapter 11 Implementation

Section 11.3.4 Rural Housing

(i) Housing Need

The Rural Settlement Strategy outlined in Chapter 2 Housing sets out the requirements to meet housing need that will be considered for housing on lands that are designated with Zoning Objective 'RU', 'HA-DM', 'HA-LV' and 'HA-DV'. For the purpose of assessing local rural housing needs criteria, the division between the High Amenity Dublin Mountain 'HA-DM' Zone and the High Amenity Dodder Valley 'HA-DV' Zone occurs at Fort Bridge, Bohernabreena with the 'HA-DM' Zone occurring to the south of the bridge and the 'HA-DV' Zone occurring to the north of the bridge.

(ii) Rural Housing Design

A comprehensive site analysis and character appraisal should be submitted with all applications for houses and extensions in rural and high amenity zones (see also Section 11.5.5 (i) Ecological Protection and (ii) High Amenity and Sensitive Landscapes). The analysis and appraisal should provide a rationale for the design and siting of the proposed development including form, building finishes, height, and massing based on the local and natural context. Such development should generally be low rise. The shape and form of residential development in rural and high amenity areas, including roof structures, should be compact and simple with external building finishes that reflect the local character of the area including vernacular buildings and traditional building materials. Dormer extensions should be minimised and should not obscure the main features of a roof.

A minimum road frontage of 60 metres should be provided for all new dwelling sites in rural areas and a proliferation of housing along stretches of road in a manner that creates ribbon development should be avoided. Dwellings and extensions should not be located on a ridgeline or in an elevated position in the landscape. The natural slope and landcover of sites should be

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

retained, with an appropriate tree and hedgerow planting scheme that utilises and augments indigenous planting. Traditional field and roadside boundaries, including old stone boundary walls and hedgerows, should be retained or reinstated as much as possible. Sustainable Urban Drainage measures should also be incorporated.

Driveway and parking areas should be minimised and should follow the natural slope and contours of the site with appropriate permeable materials. Modern gateways, piers and boundary walls should be avoided with the exception of the retention and reinstatement of traditional stone boundary walls.

(iii) Wastewater Treatment

Domestic effluent treatment plants and percolation areas serving rural houses or extensions shall comply with the requirements of the Code of Practice Wastewater Treatment Systems Serving Single Houses, EPA (2009) or other superseding standards. Such details should be included with applications for new or replacement houses and extensions to existing dwellings where there would be an increase in demand on the treatment capacity of any existing wastewater treatment system.

Section 11.7.2 Energy Performance in New Buildings

Section 11.8.2 Appropriate Assessment

Schedule 4: Restricted Areas for Development Glenasmole Bohernabreena

Landscape Character Assessment of South Dublin County (2015)

SDCC Tourism Strategy (2015)

Relevant Government Policy & Guidelines:

Project Ireland 2040 National Planning Framework, Government of Ireland, 2018

Regional, Spatial & Economic Strategy 2020-2032 (RSES), Eastern & Midlands Regional Assembly (2019)

Sustainable Rural Housing Guidelines for Planning Authorities, DoEHLG (2005)

Wastewater Treatment and Disposal Systems Serving Single Houses Environmental Protection Agency (November 2009)

The Planning System and Flood Risk Management - Guidelines for Planning Authorities, Department of the Environment, Heritage and Local Government & OPW, (2009)

Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities DoEHLG (2009)

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

Circular SP 5/08 – Conformity with Articles 43 and 56 of European Community Treaty (Freedom of Establishment and Free Movement of Capital) DEHLG September 2008

Circular PL 2/2017 – Sustainable Rural Housing Guidelines for Planning Authorities 2005 – Local Needs Criteria in Development Plans

Assessment:

The main issues for consideration relate to:

- Accuracy of Plans;
- Accuracy of notices;
- Zoning and council policy;
- Siting, visual and landscape character impact;
- Public Realm, Landscaping, Green Infrastructure and Ecology
- Access, transport and parking;
- Water facilities and services;
- Screening for Appropriate Assessment;
- Screening for Environmental Impact Assessment.

Accuracy of Plans

The applicant has indicated a red line site boundary in a site location map and site layout plans lodged with the planning application. The red line boundary contains approximately one half of a larger triangular site which appears to be divided in terms of ownership. No blue line drawing indicating ownership or control of adjoining lands has been provided by the applicant.

Aerial photography from the last ten years clearly indicates that extensive change has taken place across this triangular plot in tandem. The traditional field boundary between the two sites was removed in 2015/2016, and development of the shed structure took place on the adjoining site in 2017/18 – with access being provided through the subject site. Extensive removal of original planting and grasses has taken place on the site in the last decade as well as provision of new formal planting, and creation and then extension of the hard standing area in stages. There appears to be some kind of water servicing feature for the shed building, and a connection through the subject site to the roadside, from the adjoining site.

The applicant should confirm the extent of their ownership and the extent of control of the adjoining lands, and the relationship for access and services between the new structure to the south-east and the subject site. Any additional lands appearing on a 1:2500 map in the vicinity should also be indicated with a blue line boundary. This is a requirement to make a valid planning application under the Planning & Development Regulation 2001 as amended.

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

This issue could be addressed by re-advertising and the **significant additional information** process, but as there are other issues with the development, it should be noted in a **reason for refusal**.

Accuracy of Notices

Three site notices have been conducted by SDCC Planning and Roads staff over the course of the assessment period. From these visits the following has been observed on-site:

- The car park is operational. The price to use the car park is €5 (payable through an honesty box). In addition to the car park within the red line boundary, the access gate to the adjacent lands also advertises that secure car parking is available. Though not observed on site visits, there is evidence from Google streetview of numerous cars being parked on the adjacent lands also. To regularise development on the site, the applicant should have lodged an application for **retention permission** for the laying of hardstanding on the site and the change of use to a car park, and the red line boundary should have extended to the overall site.
- The shed on the adjacent lands is labelled as an agricultural shed and class 6 exempted development in planning drawings. A café appears to be operating out of this building, rendering it a commercial premises and in need of **retention permission** to regularise the development. The café is accessed via the subject site and served by the unauthorised car park on the subject site. "Goughie's Coffee" sandwich board menus are in place as are outdoor picnic benches, a trailer attached to the shed, and an industrial container repurposed to provide shelter for a picnic table. In summary, regardless of the potential planning assessment of a café and car park for future use, it would appear that a café is already in place and operating from the adjoining lands, with parking on the subject site. To regularise development on the site, the applicant should have lodged an application for **retention permission** for the construction of the shed structure on the site, the change of use to and operation of a café, and the red line boundary should have extended to the overall site.
- There is a gravel bed percolation area on-site indicating presence of an undisclosed and unauthorised waste water treatment system which would also need **retention permission**. Previous applications on the site have been refused in part for the unsuitable condition of the land
- There is a vehicular connection between the red line site and the adjacent lands which would in itself require **retention permission**. Assessment of this aspect of development on the lands would necessarily focus on the removal of a traditional field boundary to facilitate this connection.

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

To regularise the development on the site, the applicant should apply for retention permission. The submission of inaccurate details or the omission of certain pertinent details relating to development not defined as exempted development in the 2001 Regulations, hinders the assessment of the application and could render a permission vulnerable to judicial review at a later date. The Planning Authority cannot proceed to regularise the development on this site as part of the current permission, as retention permission has not been sought and adequate details have not been supplied as part of the application. This could be resolved by re-advertisement and the **significant additional information** process, but as there are other issues with this development, and also noting the potential scope of the development on-site that is not covered in the planning notices, it is considered appropriate to attach this as a reason for refusal.

Zoning

The subject site is located in an area with zoning objective HA-DM - 'To protect and enhance the outstanding natural character of the Dublin Mountains area in the South Dublin County Development Plan 2016-2022.

The use class 'restaurant/café' is listed as 'open for consideration' under this zoning objective, subject to two caveats:

- In existing premises
- Not permitted above 350m contour (does not apply to subject site).

Land uses that are listed as 'open for consideration' in the land use zoning tables may be acceptable to the Planning Authority subject to detailed assessment against the principles of proper planning and sustainable development, and the relevant policies, objectives and standards set out in the South Dublin County Development Plan 2016 - 2022.

Proposed uses in this category will be subject to full assessment on their own merits and particularly in relation to their impact on the development of the County at a strategic and a local level. Such uses may only be permitted where they do not materially conflict with other aspects of the County Development Plan.

The café/restaurant is not located in 'existing premises' as per the submitted plans, which seek permission for new buildings of 95.1sq.m. The development is thus considered not to be 'permissible in principle'.

The use class 'car park' is 'permitted in principle' under this zoning objective, subject to two caveats:

- Not permitted above the 350m contour (does not apply to the subject site).
- For small-scale amenity or recreational purposes only.

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

The site is not located above the 350m contour (it appears to be about 180 – 190m above sea level). The intended purpose of the car park could be considered to be for recreational purposes only. However, given the scale of the proposed facility and the level of activity noted on the site, it is considered also that the café is a use in and of itself, drawing activity to the site.

As per Schedule 4 (Restricted Areas for Development Glenasmole Bohernabreena) of the CDP the red line boundary of the site is located within 'areas where development is open for consideration'.

Scale of Development

The proposed development would have a floor area of 95.1 sqm as per the application form. This measurement appears to apply to the café building alone and the toilet block comprises approx. 14sq.m. additional floor area. As noted above, cafés are open for consideration only in existing premises under the land-use zoning objective.

The key detail for the assessment of the **car park only** on the site is whether it is for small-scale amenity or recreational purposes, or whether it functions to draw people towards a commercial premises. This is of particular note considering the proximity of the Bohernabreena Reservoir and the Special Area of Conservation, but primarily it is a function of the zoning objective.

As part of the assessment, the public advertisements of the business on social media have been noted, and it would appear that events of some scale are currently taking place, or have taken place, on the site.

Conclusion

Considering that the proposed café is to be located in a new premises in contravention of the land-use zoning objective, and considering that the car park would appear to serve this premises rather than only providing a small scale amenity and recreational purposes, permission should be **refused**.

Siting, Design, Visual Impact and Landscape Character Impact

The proposed development features two 1-storey structures with pitched roofs, sitting within this higher part of the Bohernabreena Valley. The area is framed by the Dublin Mountains on 3 sides, with Spinkeen, Killakee, Kippure, Seefingen and Corrig Mountains visible to the east, south and west. The site rises away from the roadside.

Landscape Character

The site and surrounding area are in the 'Dodder and Glenasmole' landscape character area and the site is identified as having a 'hills' landscape type (though the valley sees a transition from 'canals' through 'hills' to 'mountains'.

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

No visual impact, arboricultural impact or landscape assessment was submitted. Any proposal for development in this Dublin Mountains area should demonstrate how the landscape character will be protected.

As per the SDCC Landscape Character Assessment 2015, the area has the following characteristics:

- Highly scenic and distinctive glacial valley
- River Dodder and natural heritage designations
- Extensive views over the greater Dublin area
- Attractive and diverse topography and landuse
- Field patterns and agricultural use contrasts with open blanket bog areas
- Distinctive cluster of stone built cottages along the valley
- Important archaeological clusters including Neolithic and Bronze Age cluster at Piperstown.
- Extent: western boundary of the regional road R114 to foothills around Bohernabreena to Oldcourt, comprising the eastern and southern county boundary.

The area is summarised as: “This is a rich and distinctive landscape of national importance. Its values embrace history, archaeology, ecology, culture, landscape form, and scenery. It is highly visible with extensive views and landmarks. It forms a significant backdrop to the greater Dublin area, and is a remarkable landscape in its wildness and remoteness so close to heavily urbanised areas. Its character and integrity is of importance to local residents, and it is a very significant resource for recreation users and for tourism.”

The LCA recommends that foothills areas are protected from inappropriate developments such as wind turbines, and that great care should be taken to retain native hedgerows and provide appropriate roadside boundary treatments. The LCA further notes that the Dodder/Glenasmole area has negligible landscape capacity and that further development in the area would result in significant change in the landscape character. In its final recommendations, the following points are relevant to the site and proposed development (Planner's emphasis):

“5. Access routes for pedestrian, cyclists and other recreational users including tourists should be enhanced **taking cognisance of ecological needs** to facilitate their comfort, safety, and enjoyment.

6. Access to selected historical and archaeological resources should be developed as feasible, and should include provision of suitable signage e.g. Piperstown

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

7. Provide for a network of ecological corridors to provide both landscape functions, contribute to green infrastructure and enhance overall landscape character.

8. **The vernacular style of siting structures into the landform and use of local granite stone and rough plaster contributes significantly to landscape character and integrity and use of same should be encouraged.**

9. Opportunity for environmental education should be exploited.

10. **Enhancement of laybys and viewing points to increase their attractiveness by using native hedgerows and local granite as landscaping materials** where possible.”

Preserved Views

Under Policy HCL8 and as shown on County Development Plan maps, there are preserved views from the roadside at Lower Castlekelly Road. This is an area of relative rural isolation and lacking in development to the west, south and east of the site. As noted above, there are significant recommendations for how development in the area should reflect the landscape sensitivity. It is also considered that the preservation of views from the roadside is a factor to be assessed, in particular concerning the boundary treatment, environmental condition of the site, and the scale, siting and design of any structures thereon.

Design

The overall site accommodates an existing agricultural shed which is out of character with the wider landscape character and appears to be unauthorised. This is outside the red line boundary but the precise relationship between the two sites is the subject of uncertainty for the Planning Authority.

The proposed buildings are one-storey with pitched roof. The outer finishes would be burnt cedar or larch wood (two different specifications are indicated) with green galvanised corrugated roofs.

An Taisce states in their submission that the proposed design of the buildings would be improved by lowering the profile of the roofs. The café building would have an overall ridge height of 5.5 metres while the toilet block would have a ridge height of 3.8m.

The height of the café block should be reduced by reverting to a linear block rather than a square block arrangement and orienting the ridge parallel to the long elevation – indeed this approach is shown in the proposed arrangement of the toilet block. A linear layout with a lower roof height would be preferable and more in keeping with the vernacular architecture of the area.

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

The proposed materials are not appropriate. As per the Landscape Character Assessment recommendations for this sensitive area, vernacular materials and forms should be encouraged. The use of local granite and rough plaster should be encouraged so as to allow the development to integrate within the landscape.

Note: Improvements to the scale and material treatment of the proposed structures would have a limited impact given the presence of the large shed in the immediate area. This is a factor in considering that development on the site cannot easily be regularised without consideration of the overall site and the activities being undertaken thereon.

The proposed design has not had adequate regard to the sensitive landscape character of the area and it is considered that the proposed design would have an impact on the landscape character by way of the architectural form, boundary and landscape treatment, and materials.

Were it not for other major issues with the development, the design and the scale of the design should be the subject of a request for **additional information**. As there are other issues with the proposal, this should be attached as a **reason for refusal**.

The proposed structures are, by virtue of their scale and proposed material treatment, not in keeping with the character of the Dublin Mountains area and in particular the Dodder and Glenasmole landscape character area and the hills landscape typology typical of the valley. The proposed development would therefore be in contravention of the recommendations of the SDCC Landscape Character Assessment and Policy HCL7 Objective 1, and would disrupt the preserved view of the area and contravene Policy HCL8 of the South Dublin County Development Plan 2016 - 2022. Furthermore it would undermine the land-use zoning objective under 'HA-DM' which is "To protect and enhance the outstanding natural character of the Dublin Mountains Area," and would be contrary therefore to the proper planning and sustainable development of the area.

Site Boundary Treatment

The applicant proposes to remove the existing site boundary and pull it back from the road, so as to allow for greater vehicular sightlines. The LCA recommends use of local granite and native hedgerows when 'enhancing' laybys and viewing points.

Furthermore, the SDCC's Green Infrastructure policy, together with the SDCC Landscape Character Assessment (2015), and the policy on preserved views,

The Public Realm Department has sought more information about the proposed boundary treatment in terms of elevations and a planting plan. An Arboricultural Impact Assessment would also be necessary. This is considered more in the below section.

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

Public Realm, Green Infrastructure and Ecology

The subject site has seen major changes over the past decade which appears to include the loss of a traditional field boundary and native vegetation, and replacement with new planting, for which the applicant has receipts from 2017. The applicant now proposes to remove the boundary hedgerow to facilitate parking.

The Public Realm Department has recommended that a planting plan, landscape drawings and elevations are provided.

The SDCC Heritage Officer has advised in person that the loss of hedgerows and planting on the site to date is not welcome and would not have been permitted as part of an application for development. It would appear that these works were preparatory and in advance of the unauthorised laying of hard surfacing and use of the site as a car park, and additionally the use of the adjoining lands as a café accessed from the subject site.

Taking the two sets of advice into account, and the recommendations contained in the SDCC Landscape Character Assessment, and noting the zoning objective, preserved views, and sensitive location of the site, it is considered necessary to rule out the removal of the remaining boundary hedgerow. It is further considered that an ecological assessment of the site, which should consider its state prior to unauthorised works taking place, should inform a suite of mitigation, restoration and enhancement measures on the site as part of any development or regularisation of development on the site. In the absence of such proposals, it would be appropriate to resolve this issue by additional information. However, noting the other issues with the proposed development, it is considered that this should be a **reason for refusal**.

It is further considered that the applicant should have provided information relating to screening for appropriate assessment in relation to the Glenasmole Valley Special Area of Conservation

Access, Transport and Parking

The Roads Department has provided a report and given in-person advice on the proposed development. A Roads Department Engineer has furthermore undertaken a site visit to inform their conclusions on the development.

The SDCC Roads Department notes that the submitted sightlines do not appear to be to scale and revised drawings would be needed to show that the site can be accessed safely. In the absence of this, the proposed development would constitute a traffic hazard. Having regard to the fact that the removal of hedgerows is unlikely to be permitted by the Planning Authority, the Roads Department has further advised that the application would constitute a traffic hazard without the provision of adequate sightlines and that it may therefore be necessary to **refuse permission** rather than seek revised sightline drawings.

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

The Roads Department has further advised that the proposed development would likely attract traffic to the area for two purposes: recreational and for use of the café. In respect of recreational uses, the Department advises that some hill walking groups are likely to use a mini bus or similar to try and access the site.

The Roads Department further notes that the road leading to the site is substandard and any development in this location must be of an incidental nature, facilitating existing traffic, and not drawing traffic to the area. A delicate balancing act is therefore required between servicing existing traffic and not attracting additional traffic.

Given the above advice, and given the scale of the proposed development and the level of activity noted on the site at present, it is considered appropriate to **refuse permission** due to endangerment of public safety by way of a traffic hazard, with regard to additional traffic movements at a location it has not been established that adequate vision splays are available, and due to generation of additional traffic movements on a substandard rural road network.

Water Services

A report received from the Water Services Department states no objection subject to information regarding percolation test results, and surface water, and design details of any proposed soakaway. As there are other issues with this development, this should be included in any decision to **refuse permission**.

In relation to water supply, Irish Water has referred both water supply and waste water queries to the Environmental Health Officer.

The applicant has submitted a Site Sustainability Report and the SDCC Environmental Health Officer has stated no objection, subject to conditions. The note on screening for appropriate assessment below is relevant.

In addition to the EHO report, it is considered on advice from the SDCC Heritage Officer that a natural solution to waste water on the site, such as an integrated wetlands, would significantly improve the proposal in this sensitive location.

Screening for Environmental Impact Assessment

Having regard to the nature of the proposed development, 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.

Screening for Appropriate Assessment

The site is located within the High Amenity Dublin Mountain zoned area, and is within the Bohernabreena Reservoir Catchment in the upper Glenasmole Valley. The site is also located

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

within 1km of a number of European designated sites i.e. Glenasmole Valley SAC, Glenasmole Valley pNHA, Wicklow Mountains SAC, and Wicklow Mountains SPA.

Information for the screening out of Appropriate Assessment has not been provided and, given the potential connection of surface water and ground water to the nearby Glenasmole SAC and the Bohernabreen reservoir, this is considered to be an issue that requires professional assessment of the relevant information on the site.

It is further considered that if the site were to attract additional visitors to the area it has the potential to increase the footfall and human impact on the special area of conservation to the north, and that this should be addressed in any screening for Appropriate Assessment or Stage 2 Natura Impact Statement.

The Planning Authority has not received the relevant information and therefore having regard to:

- The nature of the proposed development;
- Proximity to nearby pNHA, SACs and SPAs;
- Hydrological connections to nearby Glenasmole Valley SAC;

That a Stage 2 Appropriate Assessment cannot be screened out on the basis of the information provided and that **additional information** would be required for the Planning Authority to undertake an adequate screening. Given that there are other issues with the development, this should be attached as a **reason for refusal**.

Conclusion

With reference to the 'HA-DM' High Amenity Dublin Mountains land-use zoning objective, 'To protect and enhance the outstanding natural character of the Dublin Mountains', given the limitations on restaurant/café developments within that zoning, and given also the potential scale of the development and the additional traffic and turning movements that it is considered would be generated on-site, and given also the lack of adequate information to screen out the need for appropriate assessment, it is considered that the development should be **refused** on the basis of:

- Contravention of the 'HA-DM' Land-use zoning objective and injurious impact on the landscape character of the Dublin Mountains Area and local views appointed for preservation under the County Development Plan;
- The proposed development would interfere with the character of the landscape or with a view of natural interest or beauty, which it is necessary to preserve.

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

- Endangerment to the public by way of traffic hazard due to increased turning movements at a location where adequate vision splays have not been shown to be available;
- Endangerment to the public by way of traffic hazard due to generation of additional traffic movements on a substandard rural road network;
- The proposed development, both by itself and in combination with works already undertaken on the site, could contravene materially a development objective indicated in the development plan for the conservation and preservation of a European site (the Glenasmole Valley SAC).
- The proposed development, both by itself and in combination with works already undertaken on the site, could cause water pollution by way of surface water or ground water in the vicinity of the Bohernabreena Reservoir and would be prejudicial to public health.

In addition to the above, it is noted that a number of other aspects of the development would need to be revised, clarified or readvertised in order to allow the Planning Authority to regularise and grant permission for the proposed development, or a variation of the proposed development, on the site, including:

- The nature of the relationship between the subject site and the adjoining lands to the south-east, through which there is a vehicular connection and which would appear to be operating in tandem as a café and customer car park;
- The extent of ownership and/or control by the applicant of the adjoining lands mentioned;
- Planning notices should reflect the unauthorised development to date and the preparatory works associated with that development and seek retention permission as necessary;
- The design, scale and material treatment of the proposed development would interfere with the character of the landscape or with a view of natural interest or beauty, which it is necessary to preserve. The development would contradict the recommendations of the SDCC Landscape Character Assessment (2015) and contradict Policy HCL 7, and revisions to this design would be necessary to obtain a grant of permission.
- The proposed removal of the boundary hedgerow would similarly impact the character of the area.
- The works to date and the proposed works should be the subject of an Ecological Impact Assessment and mitigation, restoration and enhancement measures are required to fulfil council policy on green infrastructure, biodiversity and landscape character;
- Details of a soakaway and surface water management are required.

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

- Similarly, it is considered appropriate that the applicant consider the use of a natural Integrated Constructed Wetlands or similar natural solution to dealing with waste water, given the sensitive location of the site.

It is therefore recommended that the proposed development be **refused**.

Recommendation

I recommend that a decision to Refuse Permission be made under the Planning & Development Act, 2000 (as amended) for the reasons set out in the Schedule hereto:-

SCHEDULE

REASON(S)

1. The proposed café is to be located in a new premises in contravention of the land-use zoning objective of the South Dublin County Development Plan 2016 - 2022. The car park would appear to serve this premises rather than only providing a small scale amenity and recreational purpose. The development would therefore not be open for consideration under the 'HA-DM' land-use zoning objective and would contravene materially a development objective indicated in the development plan for the zoning of land for the use solely or primarily of particular areas for particular purposes.
2. Three site visits have been conducted by SDCC Planning and Roads staff over the course of the assessment period. From these visits the following has been observed on-site:
 - The car park is operational and advertised as such both at the site and online.
 - The café is currently operations and operates from the shed on the adjacent lands. This is also advertised online.
 - A hardstanding surface has been installed for the car park and has not been the subject of a planning application already.
 - It appears that there is a waste water treatment system or similar on the subject site and adjacent lands.
 - There is a vehicular connection between the subject site and the adjacent lands and they appear to be operating as one commercial site.Additionally, aerial photographic records show that the site has been the subject of certain preparatory works including the removal of the traditional field boundary and original planting, hedgerows and vegetation on the site.
To regularise the development on the site, the applicant should apply for retention permission. The submission of inaccurate details or the omission of certain pertinent details relating to development not defined as exempted development in the 2001 Regulations, hinders the assessment of the application and could render a permission vulnerable to judicial review at a later date. The Planning Authority cannot proceed to regularise the development on this site as part of the current permission, as retention permission has not been sought and adequate details have not been supplied as part of the

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

application. This could be resolved by readvertisement and the significant additional information process, but as there are other issues with this development, and also noting the potential scope of the development on-site that is not covered in the planning notices, it is considered appropriate to attach this as a reason for refusal.

3. The design, scale and material treatment of the proposed development would interfere with the character of the landscape or with a view of natural interest or beauty, which it is necessary to preserve. The applicant proposes a material treatment of burnt cedar/larch and green corrugated roofing, whereas the SDCC Landscape Character Assessment (2015) recommends the use of local granite and rough plaster as part of the vernacular architecture of the area. The development would contradict the recommendations of the SDCC Landscape Character Assessment (2015) and contradict Policy HCL 7, and would therefore contravene the 'HA-DM' land-use zoning objective. The proposed removal of the boundary hedgerow would similarly impact the character of the area.
4. The works to date and the proposed works should be the subject of an Ecological Impact Assessment and mitigation, restoration and enhancement measures are required to fulfil council policy on green infrastructure, biodiversity and landscape character. The proposed development and any regularisation of previous works on the site would be contrary to South Dublin County Development Plan 2016 - 2022 policies on green infrastructure (Policies G1, G2, G3, G5) as mitigation and enhancement does not form part of the development.
5. (a) Due to deficiencies with the drawings submitted and policy which prevents the removal of the hedgerow as part of this development, the proposed development would risk endangerment to the public by way of traffic hazard due to increased turning movements at a location where adequate vision splays have not been shown to be available.
(b) Due to the scale of the development and the activity already ongoing on-site, the proposed development would risk endangerment to the public by way of traffic hazard due to generation of additional traffic movements on a substandard rural road network.
6. The proposed development does not include sustainable drainage systems for the management of surface water run-off to the satisfaction of the SDCC Environmental Services Department.
7. (a) The proposed development, both by itself and in combination with works already undertaken on the site, risk contravening materially Policy HCL12 for the conservation and preservation of a European site (the Glenasmole Valley SAC), due to:
 - nature of the development;
 - potential for additional human and vehicular traffic through the SAC to the site;
 - hydrological connection by way of surface water and groundwater to the Glenasmole Valley SAC;it is therefore considered that additional information would be required for the Planning Authority to adequately screen the development for the purposes of Appropriate Assessment

Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

under the EU Habitats Directive to ensure either that it would not give rise to significant direct, indirect or secondary impacts on the SAC, or that where such impacts do occur it can be robustly demonstrated that:

(1) There are no less damaging alternative solutions available; and

(2) There are imperative reasons of overriding public interest (as defined in the Habitats Directive)

requiring the project to proceed; and

(3) Adequate compensatory measures have been identified that can be put in place.

(b) The proposed development, both by itself and in combination with works already undertaken on the site, risk water pollution by way of surface water or in the vicinity of the Bohernabreena Reservoir and would be prejudicial to public health, and any proposal for development on this site should adequately deal with the potential for surface water run-off in particular relating to water which may be affected by cars using the car park.

8. The Planning Authority is not satisfied that the applicant has confirmed the extent of their ownership and the extent of control of the adjoining lands, and the relationship for access and services between the new structure to the south-east and the subject site. No additional lands have been indicated in blue line boundary. This is a requirement to make a valid planning application under the Planning & Development Regulation 2001 as amended.


Comhairle Chontae Atha Cliath Theas

PR/0314/22

Record of Executive Business and Chief Executive's Order

REG. REF. SD22A/0012

LOCATION: Lower Castlekelly Road, Glenasmole, Dublin 24.

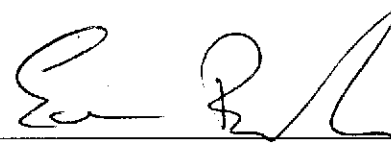


Jim Johnston,
Senior Executive Planner

ORDER: A decision pursuant to Section 34(1) of the Planning & Development Act 2000 (as amended) to Refuse Permission for the above proposal for the reasons set out above is hereby made.

Date:

11/3/22



Eoin Burke, Senior Planner