

An Rannóg Talamhúsáide, Pleanála agus Iompair
Land Use, Planning & Transportation Department
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Michael Finnan
Lower Friarstown
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Dublin 24

**NOTIFICATION OF DECISION TO REFUSE PERMISSION
PLANNING & DEVELOPMENT ACT 2000 (as amended) AND
PLANNING REGULATIONS THEREUNDER**

Decision Order No.	0314	Date of Decision	11-Mar-2022
Register Reference	SD22A/0012	Date	17-Jan-2022

Applicant: Ronan Gough

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.

Time extension(s) up to and including:

Additional Information Requested/Received: /

Clarification of Additional Information Requested/Received: /

DECISION: Pursuant to the Planning and Development Act 2000 (as amended), dated as above a decision to **REFUSE PERMISSION** is hereby made for the said development for the reason(s) set out on the Schedule hereto.

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 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 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.

Please note that upon receipt of this document you are obliged to remove the planning site notice in compliance with Article 20 of the Planning and Development Regulations 2001 (as amended). Please note that any valid submissions or observations received in accordance with the provisions of the Planning and Development Regulations 2001 (as amended), have been considered in the determination of this application.

Register Reference: SD22A/0012

Signed on behalf of the South Dublin County Council.

Yours faithfully,

 11-Mar-2022
for Senior Planner

NOTES

(A) REFUND OF FEES SUBMITTED WITH A PLANNING APPLICATION

Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications related to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of two months beginning on the date of the Planning Authority's decision on the second application. For full details of fees, refunds and exemptions the Planning & Development Regulations. 200 I should be consulted.

(B) APPEALS

1. An appeal against the decision may be made to An Bord Pleanála. The applicant or ANY OTHER PERSON who made submissions or observations to the Local Authority may appeal within FOUR WEEKS beginning on the date of this decision. (N.B. Not the date on which the decision is sent or received).
2. Every appeal must be made in writing and must state the subject matter and full grounds of appeal. It must be fully complete from the start. In the case of a third party appeal it must be accompanied by the acknowledgement by the Planning Authority of receipt of the submissions/observations. Appeals should be sent to:
The Secretary, An Bord Pleanála, 64 Marlborough Street, Dublin 1.
3. An Appeal lodged by an applicant/ agent or by a third party with An Bord Pleanála will be invalid unless accompanied by the prescribed fee. A schedule of fees is at 7 below.
4. A party to an appeal making a request to An Bord Pleanála for an Oral Hearing of an appeal must, in addition to the prescribed fee, pay to An Bord Pleanála a further fee (see 7 (g) below).
5. A person who is not a party to an appeal must pay a fee to An Bord Pleanála when making submissions or observations to An Bord Pleanála in relation to an appeal.
6. If the Council makes a decision to grant permission/grant permission consequent on a grant of outline permission and there is no appeal to An Bord Pleanála against this decision, PERMISSION/PERMISSION CONSEQUENT ON A GRANT OF OUTLINE PERMISSION will be granted by the Council as soon as may be after the expiration of the period for the taking of such an appeal. If any appeal made in accordance with the Acts has been withdrawn, the Council will grant the PERMISSION/PERMISSION CONSEQUENT ON A GRANT OF OUTLINE PERMISSION/RETENTION as soon as may be after the withdrawal.
7. Fees payable to An Bord Pleanála from 10th December 2007 are as follows:
 - (a) Appeal against a decision of a Planning Authority on a planning application relating to commercial development made by the person by whom the planning application was made. where the application relates to unauthorised development.....€4,500.00 or €9,000 if an E.I.A.R. is involved
 - (b) Appeal against a decision of a planning authority on a planning application relating to commercial development made by the person by whom the planning application was made. other than an appeal mentioned at (a)..... €1,500.00 or €3,000.00 if an E.I.A.R. is involved
 - (c) Appeal made by the person by whom the planning application was made, where the application relates to unauthorised development other than an appeal mentioned at (a) or (b)..... €660.00
 - (d) Appeal other than an appeal mentioned at (a), (b), (c) or (f) €220.00
 - (e) Application for leave to appeal..... €110.00
 - (f) Appeal following a grant of leave to appeal..... €110.00
 - (g) Referral €220.00
 - (h) Reduced fee (payable by specified bodies) €110.00
 - (i) Submission or observations (by observer) €50.00
 - (j) Request from a party for an Oral Hearing..... €50.00

If in doubt regarding any of the above appeal matters, you should contact An Bord Pleanála for clarification at Telephone 01-858 8100