

Lidos
Mount Venus Road
Rathfarnham
Dublin 16

Registry Section
Land Use Planning and Transportation Dept
South Dublin County Council
County Hall
Tallaght
Dublin 24



11 April 2022

Dear Sir/Madam

RE: Planning Application Register Reference No. SD22A/0076

Proposed Development - Permission to construct and reinstate tea rooms to include reception: main tea room area; kitchen; lobby; 2 wc's; patio area and parking and to install a septic tank and percolation area with all ancillary site works at O'Neills Team Rooms, Cruagh Road, Rathfarnham, Dublin 16 for Frank O'Gorman.

Submission.

This is a Third-Party Submission in respect to the above new planning application lodged with the planning authority on 11-March-2022.

Proposed Development.

From an examination of the plans and particulars submitted with the application, the proposed development would have been more accurately described as demolition of existing unroofed building ruins formerly used as tea rooms and the construction of a new building over part of the same footprint for use as tea rooms etc. The description was purposely vague in order to bring the proposed development within the meaning of 'open for consideration' under the land use zoning for the area.

The proposed new build has a stated floor area of 169sqm. Question 12 on the Planning Application Form poses the question 'Where the application relates to a building of buildings' the following questions must be addressed:

Question: Gross floor area of any exiting building(s) in m² – Answer - N/A.

Question: Gross floor space of any demolition works in m² – Answer - N/A

The above does not specify the floor area of the alleged building on site, nor the floor area of the alleged building to be demolished.

In addition, no detailed floor plan, section or elevation of the existing structure were submitted

Site.

The site has a stated area of 0.519ha and is located on the northern side of the Cruagh Road opposite its junction with the R116 road heading to Kilternan and Glencullen. The site is irregular in shape and is set back 98.333m to 99.565m from the roadside boundary served by a right-of-way. Any existing use/structure on the site would have pre-1963 planning status

Planning History.

Enforcement Ref. No. S7710.

A Section 152 Warning Letter dated 25th February 2016 was served alleging that unauthorised development may have been, is being or may be carried out on the site. The current application does not include the seeking of retention permission for any of the unauthorised works.

South Dublin County Council Development Plan 2016-2022.

Zoning.

The Site is located within an area subject to Land Use Zoning Objective 'HA-DM' with the Objective "to protect and enhance the outstanding natural character of the Dublin Mountain Area", under the current SDCC Development Plan 2016-2022 and SDCC Draft Development Plan 2013-2029. Under the Zoning Matrix, Use Class such as 'tea rooms' come with the ordinary meaning of 'restaurant/café'. Such land use located within the Dublin Mountains Area is 'Open for Consideration' subject to detailed assessment against the principles of proper planning and sustainable development, and the relevant policies, objectives and standards set out in the Development Plan. It is set out hereunder that the proposed developments conflicts with the zoning, policies and objectives of the SDCC Development Plan.

In addition, such land use being located within the Dublin Mountains is also subject to the following noted restrictions:

a – In existing premises and

d – Not permitted above 350m contour.

The cover letter submitted with the application indicates that the structures on the site have existed since 1829-

1842 and operated as a tea room since at least 1920s until the late 1960s and that “currently the existing structures on site are the walls of the old tea rooms, standing approximately 4-5 feet tall”.

Drg. No. 22/120/04, ‘Contiguous Elevations – Existing Streetscape’ indicate the height of ‘Old tea rooms outline’ as being just above the existing level, possibly at ground floor slab level only. The stated answers to Question 12 on the Planning Application Form does not specify the floor area of the existing structure(s) on site and the floor area of the existing structure(s) to be demolished. There would appear to be a contradiction between the contents of the Applicant’s Cover Letter and the content of the Planning Application Form/the details indicated on Drg. No. 22/2/2022

Drawing No. 22/120/01 indicates the Plan, Section, Rear View and Side View Drawing of the proposed new tea rooms. The drawing clearly demonstrates that a new replacement building is proposed, comprising new foundations, floor, walling and roof. Accordingly, the alleged roofless ruin is to be demolished and replaced with new build and therefore the proposed tea rooms is not being located within an ‘existing premises’. Accordingly, the proposed development materially contravenes the zoning provisions for the area.

Section 40 of the Planning and Development Act 2000 (as amended) imposes an appropriate period of five years for a development to be completed and an extension of time is allowed under Section 42 only if substantial works have been carried out. Most planning authorities define substantial works as ‘walling to roof level’. Were the ‘former tea rooms’ approved under the current planning acts within the last five years, it would lose its status after five years by virtue that substantial works have not been carried out. Also, it is well settled in planning case law that where the use of the structure ceased in the late 1960, such use has been abandoned. The existing alleged ‘unroofed ruin structure’ has as such lost all its pre-1963 status.

The Cover Letter also indicates that ‘the new application seeks to retain the same footprint as the old tea rooms’. The drawings submitted with the application seems to also contract this statement.

Chapter 8 Green Infrastructure.

Paragraph 8.4.0 Sustainable Urban Drainage System,

GS Objective 1:

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

Stormwater disposal from the proposed building is indicated as discharging to a soakaway, without incorporating a Sustainable Urban Drainage System (SUDS). Soil percolation tests were not submitted to establish that the ground can dispose of stormwater. It has not been indicated whether or not the access road, circulation areas and off-street car parking area will be permeable surfaces or not. The submitted details do not clarify if the disposal of storm water will not be a cause of possible flooding. Accordingly, the proposed development does not comply with the above Objective.

Chapter 9 Hermitage, Conservation and Landscapes.

Paragraph 9.2.0 Landscapes.

The site is within the Dodder and Glenasmole Landscape Character Area with the Prospect from Cruagh Mountain (Map Ref. 12) and Kilakee Mountain (Map Ref. 13) to the south to be preserved and protected. These mountains form part of the Dublin Mountains and which is of high value and sensitivity. The protection of this landscape is identified in the Development Plan as a priority.

Heritage, Conservation and Landscapes (HCL) Policy 7 Landscapes.

It is the policy of the Council to preserve and enhance the character of the County’s landscapes particularly areas that have been deemed to have a medium to high Landscape Value or medium to high Landscape sensitivity and to ensure that landscape considerations are an important factor in the management of development.

The site is located within the Landscape Character Assessment Area 4 – ‘River Dodder and Glenasmole Valley’, the Prospect from Cruagh Mountain (Map Ref. 12) and Kilakee Mountain (Map Ref. 13) to the south to be preserved and protected. These mountains form part of the Dublin Mountains and which is of high value and sensitivity. The protection of this landscape is identified in the Development Plan as a priority. The key characteristics of which are highly scenic and distinctive glacial valley which has natural heritage designations and enjoys extensive views over the greater Dublin Area. The Landscape Character Sensitivity of the LCA is described as ‘High’, with Visual Sensitivity and Overall Landscape Sensitivity both measured as ‘High’. Therefore, the area is highly vulnerable to development.

The Application failed to demonstrate that the landscape character of the area will not be affected by the proposed development. No new landscape proposals have been submitted to integrate the new build into its surroundings. Details of the existing site perimeter trees were not submitted so as to evaluate what extent they protect the existing landscape sensitivity. It has not been demonstrated that the proposed development will not have a significant impact upon the rural and natural landscape of the area and on the biodiversity and Green Infrastructure network of the locality. Accordingly, the above Objective has not been complied with.

Paragraph 9.2.1 Views and Prospects.

Hermitage, Conservation and Landscapes (HCL) Policy 8 Views and Prospects.

It is the policy of the Council to preserve Views and Prospects and the amenities of places of natural beauty or interest including those located within and outside the County

The site fronts onto the Cruagh Road at a location where it is orientated in an east/west direction. The Development Plan Map indicates a Conservation Objective to “Protect and Preserve Significant” along both sides of the road looking north and south. The proposed development will detract from views around the surrounding valley. The Applicant has failed to demonstrate that the proposed development will not interfere with views from the lowlands looking south and from the uplands looking north, or that the prospects to and from the Cruagh and Kilakee Mountains will not be affected. Accordingly, the above Objective has not been complied with.

Paragraph 9.3.1 Natura 2000 Sites.

Hermitage, Conservation and Landscapes (HCL) Policy 12 Natura 2000 Sites.

It is the policy of the Council to support the conservation and improvement of Natura 2000 Sites and to protect the Natura 2000 Network from any plans and projects that are likely to have a significant effect on the coherence or integrity of a Natura 2000 Site.

A stream close to the site feeds into the Owendoher River, which forms part of the Green Infrastructure within the County. A Natura Impact Statement was not submitted with the Application in respect to approximately 10 Natura 2000 Sites within 15km of the site. The Wicklow Mountains SPA and the Wicklow Mountains SAC are within 1km of the site. Any possible affect or non-affect on these sites has not been demonstrated, so as to allow for an Appropriate Assessment to be carried out. Accordingly, the above Objective has not been complied with

Paragraph 9.3.2 Natural Hermitage Areas.

Hermitage, Conservation and Landscapes (HCL) Policy 13 Natural Hermitage Areas.

It is the policy of the Council to protect the ecological, visual, recreational, environmental and amenity value of the County's proposed Natural Heritage Areas and associated habitats.

An Ecological Impact Assessment was not submitted with the Application. The Wicklow Mountains extend into South Dublin County and is a Proposed Natural Heritage Area located with 1km of the Site.

HCL13 Objective 1:

To ensure that any proposal for development within or adjacent to a proposed Natural Heritage Area (pNHA) is designed and sited to minimise its impact on the biodiversity, ecological, geological and landscape value of the pNHA particularly plant and animal species listed under the Wildlife Acts and the Habitats and Birds Directive including their habitats.

The Application does not demonstrate that the proposed development will have an adverse effect on the biodiversity, ecological, geological and landscape value of the Wicklow Mountains pNHA. Accordingly, the above Objective has not been complied with.

Vehicular Access.

The vehicular access is located at a 'T' junction opposite the junction of the Cruagh Road with the R116 road leading to Kilterman and Glencullen and as such forms a crossroad junction in close proximity to a right-angled bend on the Cruagh Road heading north. The Site Layout Drawing with Sightlines indicates the provision of a horizontal sightline of 3m x 40m to the east and 3m x 90m to the west. No vertical sightlines were indicated. On such a road a vertical and horizontal sightline of 2.5m x 90m in both directions is normally required. The vehicular access is located on a substandard old legacy road network which is narrow in width and has poor vertical and horizontal alignment. The road lacks space for pedestrians, runners and cyclists, public lighting and drainage facilities, with numerous vehicular access points serving one-off houses. The use of the vehicular access serving the proposed development will give rise to additional traffic movements at an existing dangerous 'T' junction and will endanger public safety by reason of a traffic hazard.

Access boundary treatment details have not been specified, together with details of other parties having use over the 'Right-of-Way' access road.

Off-Street Car Parking.

It is proposed that 6 No. off-street car parking spaces will be provided to serve the proposed development at the eastern side of the site and 1 No carparking space and disabled person space fronting the proposed building. An area for the parking of bicycles has not been indicated. Table 11.23 Minimum Parking rates (Non-Residential) for site in Zone 1 requires 1 per 15sqm GFA for Café and Restaurant. The proposed floor area is 169 sqm which requires 11.26 spaces. There is a deficiency in the number of spaces been proposed giving rise to a sub-standard development

Applicant's Submission.

The Applicant in his Cover Letter is relying on the following Policies and Objectives of the SDCC Development Plan 2016-2022 to support his grounds for a Grant of Permission for the proposed development.

Zoning Objective.

A response to the zoning issue has been set out above.

Chapter 4 Economic Development & Tourism.

Economic and Tourism (ET) Policy 5 Tourism Infrastructure.

It is the policy of the Council to support the development of a sustainable tourism industry that maximises the recreational and tourism potential of the County, through the implementation of the South Dublin Tourism Strategy 2015.

ET5 Objective 1:

To support the development of tourism infrastructure, attractions, activities and facilities at appropriate locations subject to sensitive design and environmental safeguards.

Comment

As pointed out above in this submission, the Applicant has failed to demonstrate compliance with relevant policies and objectives under Chapter 9 of the Development Plan referring to Heritage, Conservation and Landscapes and accordingly, it cannot be concluded that the proposed development has been designed in a manner that is sensitive to the receiving environment and that it will not have an adverse impact on the on the

Economic and Tourism (ET) Policy 7 Leisure Activities.

It is the policy of the Council to support and facilitate the development of leisure activities in the County.

ET7 Objective 1:

To promote the active use of managed forests for tourism and leisure related activities subject to an appropriate scale of development having regard to the pertaining environmental conditions and sensitivities, scenic amenity and availability of services.

Comment

Similarly, the Applicant has failed to demonstrate compliance with relevant policies and objectives under Chapter 9 of the Development Plan referring to Heritage, Conservation and Landscapes and has totally ignored the pertaining environmental conditions and sensitivities. The proposed development will also interfere with localised views and prospects of the adjacent mountains and rural area.

Economic and Tourism (ET) Policy 9 Rural Economy.

It is the policy of the Council to support sustainable rural enterprises whilst protecting the rural character of the countryside and minimising environmental impacts.

ET9 Objective 1:

To support and facilitate sustainable agriculture, horticulture, forestry and other rural enterprises at suitable locations in the County.

Comment.

No proposals have been submitted to ameliorate and integrate the proposed development into its surroundings having regard to the existing landscape and prominent location which offers access to spectacular views. A Sustainable Urban Drainage System (SUDS) has not been incorporated into the proposed development so as to maximum the amenity and biodiversity value. The vehicular access to the site is on a narrow road and close to a right-angle bend. The site on a visible hillside at the foothills of the Dublin Mountains and therefore is not suitable for the rural enterprise as proposed.

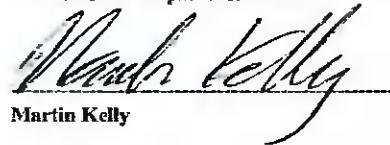
Conclusion.

The Tea Rooms are proposed to be located with a 'new build' and not within an 'existing premises' contrary to the zoning provisions of the current and draft Developments Plans. The details submitted with the application do not demonstrate that the proposed development complies with relevant policies and objectives of the Development Plan as set out above. The proposed development will generate additional turning movements at a crossroads junction within 40m of a 90degree bend on a narrow road, thus endangering public safety by reason of a traffic hazard. The proposed development will further erode the existing rural character and compromise the landscape and will give rise to the demand for the provision of uneconomic and unsustainable public services.

The Applicant has failed to take into consideration, the location of the site within the outstanding natural beauty of the Dublin Mountains Area where environmental and visual sensitivity is classified as 'high'. The proposed development will materially contravene the provisions of the current and draft development plans and will be contrary to the zoning objective for the area which seeks to '*protect and enhance the outstanding natural character of the Dublin Mountain Area*'.

The Merry Ploughboy, located further north on Edmondstown Road, presently offers food and drink facilities to hillwalkers, cyclists, motorists and the local community.

Accordingly, the proposed development cannot be deemed to be in accordance with the proper planning and sustainable development of the area.



Martin Kelly

Fee €20 attached.

**An Rannóg Talamhúsáide, Pleanála agus Iompair
Land Use, Planning & Transportation Department**

Telephone: 01 4149000 Fax: 01 4149104 Email: planning.dept@sdblincoco.ie

**Martin Kelly
Lidos
Mount Venus Road
Rathfarnham
Dublin 16**

Date: 12-Apr-2022

Dear Sir/Madam,

Register Ref: SD22A/0076
Development: Construct and reinstate tea rooms to include reception; main tea room area; kitchen; lobby; 2 wc's; patio area and parking and to install a septic tank and percolation area with all ancillary site works.
Location: O'Neills Tea Rooms, Cruagh Road, Rathfarnham, Dublin 16
Applicant: Frank O'Gorman
Application Type: Permission
Date Rec'd: 11-Mar-2022

I wish to acknowledge receipt of your submission in connection with the above planning application. The appropriate fee of €20.00 has been paid and your submission is in accordance with the appropriate provisions of the Planning and Development Regulations 2001(as amended). The contents of your submission will be brought to the attention of the Planning Officer during the course of consideration of this application.

This is an important document. You will be required to produce this document to An Bord Pleanála if you wish to appeal the decision of the Council when it is made. You will be informed of the decision in due course. Please be advised that all current applications are available for inspection at the public counter and on the Council's Website, www.sdblincoco.ie.

You may wish to avail of the Planning Departments email notification system on our website. When in the **Planning Applications** part of the Council website, www.sdblincoco.ie, and when viewing an application on which a decision has not been made, you can input your email address into the box named **"Notify me of changes"** and click on **"Subscribe"**. You should automatically receive an email notification when the decision is made. Please ensure that you submit a valid email address.

Please note: If you make a submission in respect of a planning application, the Council is obliged to make that document publicly available for inspection as soon as possible after receipt. Submissions are made available on the planning file at the Planning Department's public counter and with the exception of those of a personal nature, are also published on the Council's website along with the full contents of a planning application.

Yours faithfully,

M. Furney
for **Senior Planner**