

# Comhairle Chontae Atha Cliath Theas

**PR/0489/22**

## Record of Executive Business and Chief Executive's Order

**Reg. Reference:** SD22A/0059      **Application Date:** 18-Feb-2022  
**Submission Type:** New Application      **Registration Date:** 18-Feb-2022

**Correspondence Name and Address:** Faberlous Design Suite 212, 4/5, Burton Hall Park,  
Burton Hall Road, Sandyford, Dublin 18

**Proposed Development:** Change of use of ground floor unit from existing use  
as off-licence to use as a Restaurant and Take-Away  
with a gross floor area 148sq.m. No changes  
proposed to exterior elevation to Cromwellsfort  
Road.

**Location:** Unit known as 'The Off-Licence', Ashleaf Shopping  
Centre, Cromwellsfort Road, Whitehall Road West,  
Dublin 12

**Applicant Name:** Alket Kabuci

**Application Type:** Permission

(COS)

### **Description of Site and Surroundings**

Site Area: stated as 0.0148 Hectares on the application.  
Site Visit: 8<sup>th</sup> of March 2022.

### **Site Description**

The subject site is located at the Ashleaf Shopping Centre, which is on the corner of Cromwellsfort Road and Whitehall Road West. The subject site is an existing off-licence unit on the northern elevation of the shopping centre along Cromwellsfort Road. The unit is externally accessed from this elevation. The unit is adjacent to a public house and a pharmacy. On the opposite side of Cromwellsfort Road is two storey semi-detached housing and further shops (within Dublin City Council controlled lands).

### **Proposal**

Permission is being sought for the change of use of ground floor unit from existing use as off-licence to use as a Restaurant and Take-Away with a gross floor area 148sq.m. No changes proposed to exterior elevation to Cromwellsfort Road.

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### **Zoning**

The subject site is subject to zoning objective 'DC': *'To protect, improve and provide for the future development of District Centres'* under the South Dublin County Development Plan 2016-2022.

### **Consultations**

Water Services – no objection subject to conditions.

Irish Water – no objection subject to conditions.

Roads Department – further information requested.

Transport Infrastructure Ireland – report received.

SEA Sensitivity Screening – no overlap is recorded in the SEA monitoring system.

### **Submissions/Observations /Representations**

No third party submissions received.

Transport Infrastructure Ireland has submitted a letter stating that they have no observations to make.

### **Relevant Planning History**

#### ***Overall shopping centre including subject site in site boundary***

SD14A/0133

The development will consist of the continued use (including refurbishment and remodelling) of 18,982sq.m. and the development of an additional 43sq.m., resulting in a scheme with a total gross floorspace of 19,025sq.m., excluding car parking at Basement Level (14,210sq.m.) (the existing centre measures some 18,982sq.m. gross floor area (33,243sq.m. including basement car parking)). This permission involved changing the off-licence with a retail unit (Unit No. 19).

**Permission granted. It does not appear as though this permission in relation to the subject unit was fully implemented.**

SD11A/0103 & ABP Ref. PL06S.240491

Development of a mixed-use scheme, including retail, office and cinema uses, on 1.63 ha site, approximately, which will consist of the refurbishment and extension of Ashleaf Shopping Centre. Under this application it was proposed to amalgamate the off licence with an adjacent retail unit to create an extended retail unit. **Permission granted by SDCC. Third party appeal against decision to An Bord Pleanala. ABP decided to grant permission. It does not appear as though this permission in relation to the subject unit was fully implemented.**

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SD08A/0430 & ABP Ref. PL06S.231664

Development of a mixed-use scheme including retail (convenience, comparison, non-retail services and ancillary uses), residential, office and apart-hotel uses, on this 1.63 ha site, approximately, which will consist of the partial demolition, refurbishment and extension of Ashleaf Shopping Centre. **Permission granted by SDCC. Third party appeal against decision to An Bord Pleanala. ABP decided to refuse permission.**

Note: There have been a number of older, smaller applications for the overall shopping centre regarding changes of use, additions and alterations and that are not considered relevant to the subject application.

### **Relevant Enforcement History**

None identified in APAS.

### **Pre-Planning Consultation**

None identified in APAS.

### **Relevant Policy in South Dublin County Council Development Plan 2016 – 2022**

*Section 5.1.0 Urban Centres*

*Policy UC1 Urban Centres Overarching*

*Section 5.1.3 District Centres*

*Policy UC4 District Centres*

*Section 5.2.0 Retailing*

*Section 5.6.0 Retail Centres*

*Section 5.6.4 District Centres*

*Policy R6 District Centres*

*Section 5.8.0 Fast Food Outlets/Takeaways*

*Section 6.4.4 Car Parking*

*Policy TM7 Car Parking*

*Section 7.1.0 Water Supply & Wastewater*

*Policy IE1 Water & Wastewater*

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*Section 7.5.0 Waste Management  
Policy IE5 Waste Management*

*Section 9.3.1 Natura 2000 Sites  
Policy HCL12 Natura 2000 Sites*

*Section 11.2.8 Advertising, Corporate Identification and Public Information Signs*

*Section 11.2.9 Shopfront Design*

*Section 11.3.6 Retail Development*

*Section 11.4.1 Bicycle Parking Standards*

*Section 11.4.2 Car Parking Standards*

*Section 11.6.1 Water Management*

*Section 11.6.3 Environmental Hazard Management*

*Section 11.6.5 Waste Management*

*Section 11.8.1 Environmental Impact Assessment*

*Section 11.8.2 Appropriate Assessment*

*Schedule 6 Outdoor Advertising Strategy*

*7.0 Advertising Development Management Standards*

### **Relevant Government Guidelines**

*Project Ireland 2040 National Planning Framework, Government of Ireland, (2018).*

*Regional Spatial & Economic Strategy 2019 - 2031, Eastern & Midlands Regional Assembly, (2019).*

*Retail Strategy for the Greater Dublin Area 2008-2016, Dublin & Mid East Regional Authorities 2008.*

*Retail Planning Guidelines, Department of the Environment, Community & Local Government 2012.*

*Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities, Department of the Environment, Heritage and Local Government, (2009).*

*OPR Practice Note PN01 Appropriate Assessment Screening for Development Management (March 2021).*

### **Assessment**

The main issues for assessment relate to:

- Zoning and Council Policy;
- Change of Use;
- Impact on Amenity;
- Proposed Opening Hours:

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- Access and Parking;
- Services and Drainage;
- Environmental Health;
- Environmental Impact Assessment; and
- Appropriate Assessment.

### ***Zoning and Council Policy***

The subject site is located within zoning objective 'DC': *'To protect, improve and provide for the future development of District Centres'* under the South Dublin County Development Plan 2016-2022. Under this zoning a *'Restaurant/Café'* is Permitted in Principle. The County Development Plan defines a *'Restaurant/Café'* as *'A building or part thereof where the primary function is the sale of meals and refreshments for consumption on the premises'*. This proposed use is therefore considered to be consistent in principle with the Zoning Objective 'DC'.

In terms of the takeaway element of the use, this is not specifically listed under the land use zoning tables. These types of uses will be considered on a case-by-case basis in relation to conformity with the relevant policies, objectives and standards contained within the Plan, particularly in relation to the zoning objective of the subject site and its impact on the development of the County at a strategic and local level. Specifically Policy 10 and Section 11.3.6(iii) of the County Development Plan relate. The application has been assessed against these provisions below.

### ***Change of Use***

The proposed development would provide for the change of use of existing use as off-licence to use as a Restaurant and Take-Away. There would be internal alterations including providing store, kitchen, service area, wc and seating area. It is noted that the application drawings show no changes to the external elevation including no indication of signage. It should be conditioned that any future signage should be applied for via planning permission.

The closest takeaway restaurants to the site are a McDonald's restaurant approx. 26m to the west. There is also a Starbucks Coffee within the shopping centre. Jogi Sanjha Chulha is located approx. 70m east of the site. It is considered that the subject site is an appropriate location for the proposed restaurant/takeaway use. The proposed use would be in keeping with the scale of the existing shopping centre, which hosts a range of existing uses. It would not lead to an inappropriate proliferation of this use at this location and therefore would not have a significant adverse impact on the surrounding area.

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### ***Impact on Amenity***

It is noted that the subject unit is not located in close proximity to any residential property, however, it is considered that the development could result in negative impacts from noise and odour issues. It is recommended that a condition be imposed, should the application be approved, ensuring that no emissions, including odours, from the activities carried on at the address associated with the development shall result in an impairment of, or an interference with amenities or the environment beyond the site boundary or any other legitimate uses of the environment beyond the site boundary.

### ***Proposed Opening Hours***

The applicant has not proposed opening hours in the application. The applicant should be requested to confirm the proposed opening hours. This can be addressed by way of condition in the event of a grant of permission.

### ***Access and Parking***

The Roads Department has reviewed the proposed development and have requested further information in relation to parking:

#### ***Car Park Spaces:***

*No provision has been made for car park spaces within the application. Parking must be provided in line with the SDCC County Development Plan 2016-2022.*

*Reference: Table 11.23: Maximum Parking Rates (Non-Residential).*

#### ***Bicycle Parking:***

*No provision has been made for bicycle parking within the application. Bicycle spaces must be provided in line with the SDCC County Development Plan 2016-2022.*

*Reference: Table 11.22: Minimum Bicycle Parking Rates.*

*Roads recommend that additional information be requested from the applicant:*

1. *The applicant is requested to submit a revised layout of not less than 1:200 scale the location and number of parking spaces to be provided at the development. Please refer to Table 11.23: Maximum Parking Rates (Non-Residential) – from the SDCC County Development Plan 2016-2022.*

2. *The applicant is requested to submit a revised layout not less than 1:100 scale showing the bicycle parking. Please refer to Table 11.22: Minimum Bicycle Parking Rates– SDCC County Development Plan 2016-2022.*

a. *All external bicycle parking spaces shall be covered.*

The report from the Roads Department is noted. It is noted that parking for the original unit was provided for under the parent/previous permissions. There is existing car and bicycle parking

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provided for the shopping centre units at basement and surface levels. The site is also located within a District Centre with bus services directly outside the subject unit. It is therefore considered that sufficient parking is provided for.

### ***Services and Drainage***

Water Services and Irish Water have reviewed the proposed development and have no objection subject to standard conditions. The reports from Water Services and Irish Water are noted and should be conditioned as such.

### ***Environmental Health***

A note should be inserted in the event of a grant of permission requiring the applicant to consult with the Environmental Health Officer prior to the commencement of development.

### ***Screening for Environmental Impact Assessment***

Having regard to the modest nature of the proposed development, and the distance of the site from nearby sensitive receptors, there is no 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***

No information has been submitted in relation to AA screening. The subject site is not located within nor within close proximity to a European site. The proposed development is located within an established urban area and consists of a change of use from off-licence to restaurant/takeaway.

Having regard to:

- the scale and nature of the development,
- the location of the development in a serviced urban area, and
- the consequent absence of a pathway to the European site,

it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

### **Development Contributions**

Change of use from off-licence to restaurant and takeaway = 148sq.m

Contributions previously paid on this floor area.

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### **SEA monitoring**

Building Use Type Proposed: Change of use from off-licence to restaurant and takeaway

Floor Area: 148sq.m

Land Type: Brownfield/Urban Consolidation.

Site Area: 0.0148 Hectares.

### **Conclusion**

Having regard to the:

- provisions of the South Dublin County Development Plan 2016-2022,
- the established character of the area, and
- the nature and scale of the proposed development,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in compliance with Council policy, would not seriously injure the amenities of the area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Recommendation**

I recommend that a decision be made pursuant to the Planning & Development Act 2000, as amended, for the reasons set out in the First Schedule hereto, to Grant Permission for the said development in accordance with the said plans and particulars, subject to the condition(s) specified in the Second Schedule hereto, the reasons for the imposition of the said condition(s) being as set out in the said Second Schedule.

## **FIRST SCHEDULE**

It is considered that the proposed development accords with the policies and objectives of South Dublin County Council, as set out in the South Dublin County Council Development Plan 2016 - 2022 and subject to the conditions set out hereunder in the Second Schedule is hereby in accordance with the proper planning and sustainable development of the area.

## **SECOND SCHEDULE**

### **Conditions and Reasons**

1. Development in accordance with submitted plans and details.  
The development shall be carried out and completed in its entirety fully in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the other conditions attached hereto.  
REASON: To ensure that the development shall be in accordance with the permission and that effective control be maintained.



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2. Hours of Operation.  
Prior to the commencement of development the applicant/developer shall submit the opening hours for the unit for the written agreement of the Planning Authority.  
REASON: In the interest of residential amenity, and the proper planning and sustainable development of the area.
3. Restrictions on Signage.  
Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no further advertisement signs (including any signs installed to be visible through windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the development or within the curtilage of the site, unless authorised by a grant of planning permission.  
REASON: To protect the visual amenities of the area and in the interest of the proper planning and sustainable development of the area.
4. Water & Drainage
  - (a) All development shall be carried out in compliance with Irish Water Standards codes and practices.
  - (b) There shall be complete separation of the foul and surface water drainage systems, both in respect of installation and use. All new precast surface water manholes shall have a minimum thickness surround of 150mm Concrete Class B.
  - (c) All works for this development shall comply with the requirements of the Greater Dublin Regional Code of Practice for Drainage Works.REASON: In the interests of public health, the proper planning and sustainable development of the area and in order to ensure adequate water supply and drainage provision.
5. Minimise Air Blown Dust.  
During the construction and or demolition phase of the development, Best Practicable Means shall be employed to minimise air blown dust being emitted from the site. This shall include covering skips and slack-heaps, netting of scaffolding, daily washing down of pavements or other public areas, and any other precautions necessary to prevent dust nuisances. The applicant/developer shall comply with British Standard B.S. 5228 Noise Control on Construction and Open sites and British Standard B.S. 6187 Code of Practice for demolition.  
REASON: In the interest of public health and to uphold the Council's policies set out in the South Dublin County Council Development Plan.
6. Construction Noise and Hours.  
To control, limit and prevent the generation of unacceptable levels of Environmental Noise Pollution from occurring during construction activity, no Equipment or Machinery

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(to include pneumatic drills, on-site construction vehicles, generators, etc.) that could give rise to unacceptable levels of noise pollution as set out generally for evening and night-time in S.I. No. 140/2006 - Environmental Noise Regulations 2006 shall be operated on the site before 7.00 hours on weekdays and 9.00 hours on Saturdays nor after 19.00 hours on weekdays and 13.00 hours on Saturdays, nor at any time on Sundays, Bank Holidays or Public Holidays.

Any construction work outside these hours that could give rise to unacceptable levels of noise pollution shall only be permitted following a written request to the Planning Authority and the subsequent receipt of the written consent of the Planning Authority, having regard to the reasonable justification and circumstances and a commitment to minimise as far as practicable any unacceptable noise outside the hours stated above. In this respect, the applicant or developer shall also comply with BS 5228:2009 Noise and Vibration Control on Construction and Open Sites, and have regard to the World Health Organisation (WHO) – Guidelines for Community Noise (1999).

The applicant or developer shall also endeavour to engage in local consultation in respect of any noise sensitive location within 30 metres of the development as approved prior to construction activity commencing on site. Such noise sensitive locations should be provided with the following:

- Schedule of works to include approximate timeframes
- Name and contact details of contractor responsible for managing noise complaints
- Hours of operation- including any scheduled times for the use of equipment likely to be the source of significant noise.

REASON: In the interest of public health by the prevention of unacceptable levels of noise pollution which could interfere with normal sleep and rest patterns and/or when people could reasonably expect a level of quietness, the proper planning and sustainable development of the area and to uphold the Council's amenity policies set out in the South Dublin County Council Development Plan.

### 7. Operational Noise.

(a) Noise due to the normal operation of the proposed development, expressed as Laeq over 15 minutes at the façade of any noise sensitive location, shall not exceed the daytime background level i.e. 0700 – 1900 by more than 10 dB(A) and shall not exceed the background level for evening and night time (currently 19:00 – 07:00) as determined in S.I. No. 140/2006 - Environmental Noise Regulations 2006 .

Clearly audible and impulsive tones at noise sensitive locations during evening and night as determined in S.I. No. 140/2006 - Environmental Noise Regulations 2006 shall be avoided irrespective of the noise level.

(b) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any residence, adjoining premises or public place in the vicinity.

(c) All mechanical plant and ventilation inlets and outlets should be sound insulated

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and/or fitted with sound attenuators as necessary to ensure that the noise level as expressed as LAeq over 15 minutes at 1 meter from the façade of any noise sensitive location does not exceed the background level by more than 10 dB(A) for daytime and shall not exceed the background level for evening and night time (currently 19:00 – 07:00) as determined in S.I. No. 140/2006 - Environmental Noise Regulations 2006.

REASON: In the interest of public health by the prevention of unacceptable levels of noise pollution which could interfere with normal sleep and rest patterns and/or when people could reasonably expect a level of quietness, and to uphold the Council's amenity policies set out in the South Dublin County Council Development Plan.

### 8. Emissions.

No emissions, including odours, from the activities carried on at the address associated with the development shall result in an impairment of, or an interference with amenities or the environment beyond the site boundary or any other legitimate uses of the environment beyond the site boundary.

REASON: To ensure a satisfactory standard of development.

NOTE: The applicant is advised that under the provisions of Section 34 (13) of the Planning and Development Act 2000 (as amended) a person shall not be entitled solely by reason of a permission to carry out any development.

NOTE: The requirements of the HSE Environmental Health Officer shall be ascertained prior to the commencement of development in the interest of public health.

NOTE: The applicant or developer should ensure that all necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works and to ensure that any such instances arising are remedied immediately.

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**REG. REF. SD22A/0059**

**LOCATION: Unit known as 'The Off-Licence', Ashleaf Shopping Centre, Cromwellsfort Road, Whitehall Road West, Dublin 12**

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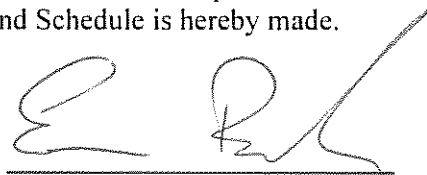
*Colm Harte*

Colm Harte,  
Senior Executive Planner

**ORDER:** A decision pursuant to Section 34(1) of the Planning & Development Act 2000, as amended, to Grant Permission for the reasons set out in the First Schedule above, in accordance with the said plans and particulars, subject to the condition(s) specified in the Second Schedule above, the reasons for the imposition of the said condition(s) being as set out in the said Second Schedule is hereby made.

Date:

14/4/22



**Eoin Burke, Senior Planner**