

**South Dublin County Council**  
**An Rannóg Talamhúsáide, Pleanála agus Iompair**  
**Land Use, Planning & Transportation Department**  
**Telephone: 01 4149000 Fax: 01 4149104 Email: [planning.dept@sdblincoco.ie](mailto:planning.dept@sdblincoco.ie)**

**Martin Kelly Planning**  
**104, Greenpark Meadows**  
**Mullingar**  
**Westmeath**

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

<b>Decision Order No.</b>	<b>0571</b>	<b>Date of Decision</b>	05-May-2022
<b>Register Reference</b>	SD22A/0076	<b>Date</b>	11-Mar-2022

**Applicant:** Frank O'Gorman

**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

**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 subject site is located in an area with zoning objective HA-DM - High Amenity Dublin Mountains which seeks 'To protect and enhance the outstanding natural character of the Dublin

Mountains Area' in the South Dublin County Development Plan 2016-2022. The proposal for a 'Restaurant/Café' is open for consideration within the 'HA-DM' zoning objective subject to it being in accordance with the relevant criteria (Table 11.1) where the development is within an existing premises and is not above the 350 metre contour. The proposed development is to be located where there is an existing c.4/5 foot high wall structure with no roof. This is not considered to be an existing premises. Thus, the proposal contravenes a fundamental requirement of the zoning objective and would be contrary to the 'HA-DM' zoning objective for the area as set out in the SDCC Development Plan 2016-2022.

2. Given concerns regarding the location of the vehicular entrance for the subject site where it sits directly across from the junction of the Cruagh & Glencullen Roads (R116) it has not been satisfactorily demonstrated that the proposal would not endanger public safety by reason of a traffic hazard.
3. There is a significant absence of essential ecological information with the application. As the proposed development site is located in a sensitive ecological location in the Dublin Mountains, close to a tributary of the Owendoher which is an important trout spawning river and due to the forested nature of the vicinity and the presence of ruined buildings, there is the potential for protected species such as bats to be present or to use the site for foraging or roosting. This has not been assessed in the submission by the applicant. The proposed development site is also in close proximity to two Natura 2000 sites, the Wicklow Mountains Special Area of Conservation and the Wicklow Mountains Special Protection Area for Birds. Sufficient ecological survey assessments have not been undertaken in order to inform an Appropriate Assessment of the potential impacts of the proposed development on these nearby protected sites. It has not been satisfactorily demonstrated that the proposal would not contravene the following policies of the SDCC Development Plan 2016-2022:
  - Policy HCL 9 (Heritage, Conservation and Landscapes (HCL) Policy 9 Dublin Mountains).
  - Policy HCL 12 (Natura 2000 sites).
  - Policy HCL 13 (Natural Heritage Areas).
4. Due to insufficient information regarding Surface Water Drainage requirements the Planning Authority are not satisfied that the proposal would not be prejudicial to public health.
5. There are protected views as per the SDCC Development Plan 2016-2022 Map Index looking northwards towards the subject site from Cruagh Road. The land slopes in a south-north direction, sloping towards the subject site. The applicant states in their cover letter submitted that the proposal 'fits into the surrounding landscape sympathetically and is environmentally sustainable'. However, no Landscape Character Assessment or Visual Impact Assessment has been submitted as part of this application. There is no documentation regarding site selection and siting showing how the proposed development will be positioned in such a way to minimize environmental and visual impacts and fit into the rural character of the landscape sensitively. The absence of any siting and visual impact assessment for the proposal in the 'HA-DM' zoning objective and the adverse impact on Protected Views is not acceptable to the planning authority. The proposal would be contrary to the following policies of the SDCC Development Plan 2016-2022:

- Policy HCL 7 (Landscapes).
- Policy HCL 8 (Views & Prospects).

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/0076**

Signed on behalf of the South Dublin County Council.

Yours faithfully,

  
for **Senior Planner**

05-May-2022

## 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