

# Comhairle Chontae Atha Cliath Theas

**PR/1230/22**

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

**Reg. Reference:** SD22A/0331      **Application Date:** 15-Aug-2022  
**Submission Type:** New Application      **Registration Date:** 15-Aug-2022  
**Correspondence Name and Address:** Holly Thompson, Demesne Architects & Interior Designers Desmond House, Main Street, Maynooth, Co. Kildare  
**Proposed Development:** Application for retention permission for development at this site, lands at former Mc Evoys Pub, Main Street, Newcastle, Co. Dublin. the development consists of a temporary mobile coffee/retail kiosk using a modified van, with associated signage, to be used as a facility for serving take away coffee and snacks during the hours of 7.00am and 4.00pm. the mobile kiosk will be removed out-side of these hours.  
**Location:** Lands at former McEvoys Pub, Main Street, Newcastle, Co. Dublin  
**Applicant Name:** Tea & Bean Ltd, Damien Donnegan & Fiona Mc Donald  
**Application Type:** Retention

(NM)

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

#### **Site Area**

Stated as 0.0321 Hectares.

#### **Site Description**

The application site is located adjacent to the former McEvoys Pub off the Athgoe Road leading onto Main Street Upper in Newcastle. The immediate vicinity is predominantly residential in nature with retailing uses further along the street.

#### **Proposal:**

The development for retention consists of:

- Temporary mobile coffee/retail kiosk using a modified van, with associated signage, to be used as a facility for serving take away coffee and snacks during the hours of 7.00am and 4.00pm.
- The mobile kiosk will be removed out-side of these hours.

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### Zoning:

The site is subject to zoning objective 'OS' - 'To preserve and provide for open space and recreational amenities.'

### Consultations:

*Transport Infrastructure Ireland* – No objections or additional comments.

*Irish Water* - No objection subject to standard conditions.

*Water Services* – No objection subject to standard conditions.

*Parks* – No objections or additional comments.

*Roads* – Refuse Permission.

### SEA Sensitivity Screening

Overlaps with

- Architectural Conservation Area
- Area of Architectural Potential
- Record Of Monuments And Places
- Sites Of Geological Interest

### Submissions/Observations /Representations

There were two observations received which can be summarized as follows:

#### Submission 1

- Advertising signs placed on ESB poles and directly opposite dwelling
- Diesel/Petrol generator starts at 7am each morning and continues until 6pm 7 days a week
- Significant traffic congestion
- Haphazard parking including outside private dwelling
- Continuous car horns and potential for serious accident
- No action has been taken as a result of enforcement order
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#### Submission 2

- House was broken into twice in the last four years and the occupant is therefore wary of suspicious activity and the constant parking of cars causes distress to the occupants
- The cars parked look directly into their dwelling which is injurious to their residential amenity
- The noise from the generator means they have had to have the windows closed at the front of their property
- Traffic has increased substantially for differing reasons throughout the day
- Major incident on 22<sup>nd</sup> of June whereby telephone and ESB poles were damaged causing disruption

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- Termination notice not adhered to
- Determination of what is meant by temporary mobile coffee retail kiosk is required

The submissions have been taken into account in the assessment of the proposals.

### Relevant Planning History

#### *Subject Property*

SD22A/0322:

Demolition of all existing derelict structures on the site and the construction of 18 residential units provided in 2 separate blocks; Block 1 will be 3 storeys high and will contain 12 units; Block 2 will be two storeys high and will contain 6 units; The 18 units consist of 6 one bed apartments, 6 two bed apartments, 3 three bed duplexes and 3 three bed apartments; Ancillary development including reusing existing vehicular access/egress off Hazelhatch Road, providing a new vehicular egress (only) onto Main Street, car and cycle parking, open space, landscaping, boundary treatment (including existing stone wall at east side of the site to be partially removed, along with gates, with main portion of wall repaired and lowered), footpaths, circulation areas and all associated site works.

This application is currently under assessment.

SD06A/0026/ABP 220186 – **Permission Refused on ABP appeal** for mixed commercial and residential development – demolish fire damaged pub, retain basement, redevelop public house, off-licence, first floor restaurant, 2 x ground floor commercial units, 2 x first floor offices, ancillary site works, ESB sub-station, new wall, and railings. REASON: ABP refused based on overdevelopment, traffic concerns and concerns of heritage/protected structures.

SD01A/0243 – **Permission Granted** for retention minor alterations to the toilet block and completion of conversion of ladies' toilet to lounge.

#### Adjacent sites:

None.

### Relevant Enforcement History

S8891 - Main Street Upper, Newcastle, Co Dublin - Operation of a business without planning permission – Live File

### Pre-Planning Consultation

None recorded.

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### Relevant Policy in South Dublin County Council Development Plan 2022 - 2028

*Chapter 3 Natural, Cultural and Built Heritage (NCBH)*

*Policy NCBH20: Architectural Conservation Areas Preserve and enhance the historic character and visual setting of Architectural Conservation Areas and carefully consider any proposals for development that would affect the special value of such areas.*

*Chapter 4 Green Infrastructure*

*Section 4.1 Methodology*

*GI1 Objective 4: To require development to incorporate GI as an integral part of the design and layout concept for all development in the County including but not restricted to residential, commercial and mixed use through the explicit identification of GI as part of a landscape plan, identifying environmental assets and including proposals which protect, manage and enhance GI resources providing links to local and countywide GI networks.*

*Section 4.2.1 Biodiversity*

*GI2 Objective 4: To integrate GI, and include areas to be managed for biodiversity, as an essential component of all new developments in accordance with the requirements set out in Chapter 12: Implementation and Monitoring and the policies and objectives of this chapter.*

*Section 4.2.2 Sustainable Water Management*

*Policy GI3: Sustainable Water Management*

*Protect and enhance the natural, historical, amenity and biodiversity value of the County's watercourses. Require the long-term management and protection of these watercourses as significant elements of the County's and Region's Green Infrastructure Network and liaise with relevant Prescribed Bodies where appropriate. Accommodate flood waters as far as possible during extreme flooding events and enhance biodiversity and amenity through the designation of riparian corridors and the application of appropriate restrictions to development within these corridors.*

*Chapter 5 Quality Design and Healthy Placemaking (QDP)*

*QDP3 Objective 2: To protect and conserve the special character of the historic core of the villages and ensure that a full understanding of the archaeological, architectural, urban design and landscape heritage of each village informs the design approach to new development, infrastructure and renewal, recognising the particular character and context in Architectural Conservation Areas*

*Chapter 7 Sustainable Movement*

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*Chapter 9 Economic Development and Employment*

*9.6 Fast Food Policy EDE16: Retail - Fast Food Outlets / Takeaways Manage the provision of fast-food outlets and takeaways in our urban areas.*

*EDE16 Objective 1: To prevent an over proliferation of fast-food outlets / takeaways and ensure that the intensity of any proposed use is in keeping with both the scale of the relevant building and the pattern of development in the area.*

*EDE16 Objective 2: To restrict the opening of new fast food / takeaway outlets in close proximity (400m of school entrance) to schools so as to protect the health and wellbeing of school-going children.*

*Section 11.2.1 Sustainable Urban Drainage Systems (SuDS)*

*Policy IE3: Surface Water and Groundwater*

*Manage surface water and protect and enhance ground and surface water quality to meet the requirements of the EU Water Framework Directive.*

*Chapter 12 Implementation and Monitoring*

*Section 12.3 Natural, Cultural and Built Heritage*

*Section 12.3.1 Appropriate Assessment*

*Section 12.3.3 Environmental Impact Assessment*

### **Relevant Government Guidelines**

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

*Regional Spatial and Economic Strategy, Eastern & Midland Regional Assembly, 2019.*

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

### **Assessment**

The main issues for assessment are

- Zoning and Council policy,
- Exempted Development
- Residential and Visual amenity
- Transport Infrastructure Ireland
- Drainage
- Parks
- Roads
- Green Infrastructure
- Appropriate Assessment
- Environmental Impact Assessment

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### *Zoning and Council Policy*

The site is located on land designated as zoning objective 'OS' (Open Space) – 'To preserve and provide for open space and recreational amenities'. A development consisting of the retention of a temporary mobile coffee/retail kiosk using a modified van, would most closely align to the use Restaurant/Café which is 'Open for Consideration' under this zoning objective and as such would potentially be allowable subject to the relevant provisions in the County Development Plan **2022-2028**.

It should be noted that the site plan submitted suggests that the lands are in private ownership. It would appear from council records that the application site is not located on lands that are 'Taken in Charge' by the Roads Authority. Had the application been other acceptable, this information could have been requested by way of a request for **Additional Information**.

### *Requirement of Planning Permission*

It is noted that the applicant, within the statutory notices, has set out the proposal would involve the parking of a temporary mobile coffee/retail kiosk during the hours of 7.00am and 4.00pm, which would be removed out-side of these hours.

In this regard, the Planning Authority would note that Class 37 as set out within Part 1 of Schedule 2 to the Planning and Development Regulations 2001, - provides some exemption for the placing of vans or other temporary or movable structures on the land, where that "*The land shall not be used for any such purposes either continuously for a period exceeding 15 days or occasionally for periods exceeding in aggregate 30 days in any year.*" It is therefore clear that the subject development requires Planning Permission.

### *Residential and Visual Amenity*

The site of the mobile catering van for proposed retention is located in an Architectural Conservation Area and adjacent to St. Finian's Church of Ireland Church, Newcastle, a protected structure. The site itself is a narrow strip of land predominately in stone/hardcore with a grass verge and no defined car spaces marked out on the site. The applicant has provided elevation of the subject van, from which the commercial use would operate, and it is not considered any significant impact on visual amenity of the area would be caused, as a result of the current application. In relation to residential amenity, it is noted that the subject site does not directly adjoin any residential properties, with the closest residential dwelling located to the south of the site, on the opposite side of the Athgoe Road and therefore would not result in any loss of privacy. While concern is noted in relation to the noise impact of the generator used by the subject use, had the application been otherwise acceptable, the applicant could have been requested to address this issue.

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### *Transport Infrastructure Ireland*

TII had no objection or comment on the proposed development for retention.

### *Drainage*

The reports from Irish Water and Water Services indicate no objection to the development for retention and the **standard conditions** should be attached in the event of a grant of permission.

### *Parks*

The Parks department had no comment on the proposed development. Notwithstanding this, the development is located on a narrow strip of land zoned Open Space which is considered an inappropriate location for the sale of coffee and doughnuts. Furthermore, the applicant should demonstrate that they have the required Casual Trading Licence required to operate here.

### *Roads*

The Roads Department recommend a **refusal of permission for retention** and the following report was received:

### *Description*

*An application for retention of a mobile retail kiosk at a site in Newcastle. The location of the van is on an unfinished surface to one side of the Athgoe Road.*

*There is no appropriate place to park the van and there is no safe access for this vehicle to the location from the public road. There is no safe place to park vehicles for customers to park nor que or wait. The location of the van may encourage motorists to park in proximity resulting in a traffic hazard.*

### ***Road's objections:***

*There is inadequate visibility, no correct vehicle access for the van at the proposed site. The likelihood of increased traffic movements and parking at this location would endanger public safety by reason of a traffic hazard.*

This mobile coffee/doughnut van is predominately reliant on passing vehicular traffic and pedestrian users. The location of this development creates hazardous conditions for both pedestrians and road users, and it is considered appropriate that the application for retention is **refused** on this basis. Submissions raising concern around traffic safety are also noted in this regard.

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### ***Green Infrastructure***

The subject application provides for the retention of a mobile coffee/doughnut catering van situated on a site zoned Open Space. The site is located within Primary GI Corridor 6 Rural Fringe Corridor as identified in the Green Infrastructure Strategy Map (Figure 4.4 and fully detailed in Appendix 4 of the South Dublin County Development Plan 2022-2028).

Given the size, scale and nature of the proposed development, a full GI assessment for the proposed development is not required.

### ***Screening for Appropriate Assessment***

The subject site is not located within nor within close proximity to a European site. The proposed development comprises of the retention of a mobile coffee/doughnut catering van. Having regard to:

- the small scale and domestic 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.

### ***Environmental Impact Assessment (EIAR)***

Having regard to the modest nature of the development, and the distance of the site from nearby sensitive receptors, 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.

### **Conclusion**

Retention permission for the proposed development should be refused on the basis of creating hazardous road conditions. The proposed development, being contrary to the 'OS' land-use zoning objective, would not be in accordance with the South Dublin County Development Plan 2022 – 2028, or the proper planning and sustainable development of the area.

### **Recommendation**

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

## **SCHEDULE**



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### **REASON(S)**

1. The subject development, by reason of its location, associated increase in traffic movements and the inadequate visibility for road users would, if approved, endanger public safety by reason of a the creation of a traffic hazard and is therefore contrary to the proper planning and sustainable development of the area.

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**REG. REF. SD22A/0331**

**LOCATION: Lands at former McEvoy's Pub, Main Street, Newcastle, Co. Dublin**

  
**Colm Harte,**  
**Senior Executive Planner**

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

**Date:** 10/10/22

  
**Gormla O'Corrain, Senior Planner**