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Bord  
Pleanála

## Inspector's Report ABP 308200- 20

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<b>Development</b>	Temporary change of use from car parking to outdoor seating area
<b>Location</b>	The Battletower Public House, Beaumont Avenue and Churchtown Road Upper, Churchtown, Dublin 14.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council.
<b>Planning Authority Reg. Ref.</b>	D20A/0454
<b>Applicant(s)</b>	Darjan Limited.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party v Grant
<b>Appellant(s)</b>	1. David Coolican 2. John & Rita Lee 3. Jill Lee
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	13 <sup>th</sup> November 2020.
<b>Inspector</b>	Hugh Mannion.

## 1.0 Site Location and Description

- 1.1. The application site has a stated area of 84m<sup>2</sup> and comprises part of the parking area attached to the Bottletower public house on the corner of Churchtown Road Upper and Beaumont Avenue, in Churchtown, County Dublin. The area is residential in nature; some of the houses facing onto Churchtown Road date from the 19<sup>th</sup> century to early 20<sup>th</sup> century but behind these are large areas of more modern residential estates characterised by two storey semidetached housing. Opposite the application site on the north side of Churchtown Road is a nail bar and to the right (east) of the nail bar is a terrace of three houses. Adjoining the application to the east is a terrace of 5 houses with accesses onto Churchtown Road Upper. Immediately to the south of the application site, in the same neighbourhood centre development and facing onto Beaumont Avenue is a fast food outlet, a betting shop and a launderette. There are about 14 diagonal parking spaces in front of these business premises. On the other side of Beaumont Avenue is a four storey block of local authority apartments (Saint Nathy's House) and beyond this is another small commercial area at Fields Corner.
- 1.2. Churchtown Road is part of a regional route (the R112) which links the Stillorgan Road/N11 in the east to Walkinstown in the west.

## 2.0 Proposed Development

- 2.1. Temporary change of use from outdoor car parking area to outdoor seating area for the pub to comply with social distancing requirements at the Bottletower Public House at Beaumont Avenue/Churchtown Road Upper, Churchtown, Dublin 14.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant with conditions.

Condition 2 limited the lifetime of the permission to 6 months with provision that an additional 6 months can be subject to agreement with the planning authority.

Condition 5(a) requires road markings for the carparking/loading areas on Beaumont Avenue.

### 3.2. **Planning Authority Reports**

#### 3.2.1. Planning Reports

The planner's report recommended a grant of permission as set out in the Manager's Order.

#### 3.2.2. Other Technical Reports

**Transport Planning Section** recommended a temporary permission subject to conditions (see especially condition 5 relating to parking for deliveries) in the grant of permission.

**Drainage Planning** reported no objection.

### 4.0 **Planning History**

- 4.1. Under ABP302173 -18 permission was refused for the conversion of 83m<sup>2</sup> of car parking to seating area related to the permitted public house use at the corner of Beaumont Avenue and Churchtown Road Upper. The Board refused permission for two reasons:

#### **Reason1**

The applicant has not demonstrated that the proposed development would allow for the adequate servicing of the premises by delivery and collection vehicles. The Board cannot therefore be satisfied that the proposed development would not lead to conditions which would be prejudicial to public safety by reason of traffic hazard on the public roads in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

#### **Reason 2**

In the absence of adequate attenuation measures, it is considered that the proposed development would result in adverse noise impacts to the residential amenities of adjacent residential properties. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

## 5.0 Policy and Context

### 5.1. Development Plan Policy

5.2. The site is zoned NC neighbourhood centre which is “to protect, provide for and-or improve mixed use neighbourhood centre facilities” in the Dun Laoghaire Rathdown County Development Plan 2016-2022.

### 5.3. Policy RET6 objective is to;

5.4. It is Council policy to encourage the provision of an appropriate mix, range and type of uses – including retail and retail services - in areas zoned objective ‘NC’ subject to the protection of the residential amenities of the surrounding area.

### 5.5. Natural Heritage Designations

5.6. Not relevant.

### 5.7. EIA Screening

5.8. Having regard to the scale and nature of the proposed development and the absence of any additional wastewater loading it is considered that the proposed development will not give rise to likely significant environmental impacts and an EIAR is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The proposed development will exacerbate the danger to public safety as it will require deliveries (barrels/crates/gas cannisters) and parking to disrupt a bicycle lane and footpath along the public road. Condition 5(c) is inadequate to manage traffic at the application site.
- The operating hours of the area are too long and will seriously negatively impact on the amenity of adjoining property. The proposed development has not had sufficient regard to the residential nature of the adjoining area.
- The sitting out area allows views into the bedrooms of adjoining houses.

- Lighting and noise 'leaking' from the site will seriously injure the amenity of adjoining property.
- The proposal will lead to more on-street car parking in the local area which will exacerbate parking problems in the area.
- There is existing additional capacity within the premises which is not being efficiently used.
- There is an oversupply of public houses in the area.

## 6.2. Applicant Response

- The applicant has submitted drawings in accordance with conditions 3 and 4 providing for entrance only from Churchtown Road Upper and exit only from Beaumont Avenue side. CCTV will ensure that the closing times for the seating area are observed in accordance with the conditions imposed by the planning authority.
- The lighting into the car park has been in place for 20 years and has not given rise to complaint. The outdoor seating will have lower wattage lights than the floodlights currently in place. There is public lamp standard on Churchtown Road which already illuminates the appellants' homes.
- Deliveries take place between 8.30am and 10am. The pub opens at midday. The applicant has asked a supplier not to park on the appellant's property. The applicant has erected bollards along the Churchtown Road site boundary to prevent unauthorised parking.
- The loading bay on Beaumont Avenue can be driven into and reversed out of. The applicant has submitted drawings providing for this to the planning authority.
- There is no history of accidents related to the applicant's premises. The change of use from three car spaces to a loading bay will not endanger cyclists.

- The car park has existed for 50 years, has always been open to the public and will not injure adjoining residential amenity. There will be no impact on uses on the other side of Churchtown Road.
- The existing upstairs area is not suitable for the proposed use as a food service area and sitting out area respecting social distancing arrangements.
- The application site is appropriately zoned and the area is not over supplied with public houses.

### 6.3. **Planning Authority Response**

- The appeals do not raise additional issues that require comment.

### 6.4. **Observations**

- No observations.

### 6.5. **Further Submissions**

6.6. The appellants (John & Rita Lee/David Coolican/Jill Lee) commented on the applicant's response to the appeal. These comments are summarised as;

- The matter of additional lighting is unclear in this application.
- Noise will adversely impact on adjoining houses. Patrons have been/will be allowed to congregate in the area into the early morning.
- The examples of seating in other premises are not relevant to this application.
- The proposed development will give rise to traffic hazard. Cars have been allowed to park blocking the footpath.

## 7.0 **Assessment**

7.1. The planning issues in the present case are development plan policy, traffic safety, on-street parking, impact on residential amenity, other public houses and duration of permission.

**7.2. County Development Plan Policy.**

7.3. The proposed development comprises a change of use of an existing public house car parking area to outdoor seating in an area zoned for neighbourhood centre activity. Public houses and car parks are permitted in principle in these zones. I consider that the proposed use is ancillary to the existing use of the site as a public house and that it accords with the zoning objective for the area.

**7.4. Traffic Safety.**

7.5. The appeal makes the point that deliveries to the pub will endanger public safety by reason of traffic hazard. The Transport Planning Department did not recommend refusal but sought clarity on how deliveries would be managed from Beaumont Avenue. The planning authority imposed a condition (condition 5) requiring the applicant to provide road markings for a loading bay on the Beaumont Avenue side of the premises.

7.6. In principle I consider that car parking should be kept to a minimum in suburban pubs which are located in areas with higher population density and that have access to good transport facilities, in the present case the site is located in a built-up suburb, there is a bus route on Churchtown Road and a Luas stop in Dundrum. The applicant makes the point that he has established bollards along the Churchtown Road which prevents commercial vehicles from entering the parking spaces from this direction. I observed these bollards and agree that they confine movement into/out of the spaces to the Beaumont Avenue (west) side of the premises.

7.7. The applicant makes the point that deliveries are confined to the less busy mid-morning periods and the planning authority has accepted that subject to the additional requirement that a loading bay be marked out on Beaumont Avenue the proposed development would not give rise to traffic hazard.

7.8. The site is at a light controlled junction of Beaumont Avenue, Nutgrove Avenue and Churchtown Road Upper which also has a light controlled pedestrian crossing. Along the western elevation there is car parking and a bicycle lane. Given the road junctions/pedestrian lights and business premises opening onto the footpath I consider that traffic speeds will be low. I conclude that the removal of customer parking at this location is reasonable and that, subject to a condition requiring the applicant to layout a delivery parking area to the west of the premises to the

satisfaction of the planning authority, that the proposed development will not endanger public safety by reason of traffic hazard.

**7.9. On-street Parking.**

7.10. The appeal makes the point that the proposed development will give rise to additional on-street parking.

7.11. The site layout provides for 11 tables for 4 for restaurant service. I do not consider that this level of additional seating area in an established commercial premises in an appropriately zoned area has the capacity to alter the traffic patterns in the wider area of give rise to materially different parking demand than that associated with the existing commercial developments in the area.

**7.12. Impact on Residential Amenity.**

7.13. The appeal makes the case that the operating hours of the outside seating are too long and will negatively impact on the amenity of adjoining property. Condition 4 imposed by the planning authority limits the operating hours of the outside seating to 10pm Sunday to Thursday and until 11pm Friday and Saturday.

7.14. The residential uses on the north side of Churchtown Road are about 35m on the opposite side of a busy distributor road. St Nathy's apartments are about 45m to the west on the other side of Beaumont Avenue and Nutgrove Avenue. I do not consider that these houses or the apartments will be impacted by the proposed development by noise or disturbance in a manner as to seriously injure their residential amenity.

7.15. The most problematic is the adjoining houses which face onto Churchtown Road to the east of the application site. The boundary treatment between the site and the front garden of the nearest house is about 2m high comprising a dashed lower wall surmounted by a solid wooden/plank fence. As a mitigation measure the seating area has been set back about 9m from this wall. I conclude that this separation distance, the existing boundary treatment and the limit on the time the outside seating may be used as imposed by the planning authority and as set out in condition 4 of the draft order below is sufficient to protect the amenity of residential property adjoining the application site to the east.

7.16. In relation to light spill into adjoining property it may be noted that that there is public lighting on both sides of Churchtown Road and on Nutgrove Avenue close to the site

and existing outside lighting fixed to the façade of the existing premises. The application does not include additional lighting.

**7.17. Capacity within the site and Public Houses in the Area.**

7.18. The appeal makes two related points that the existing public house has additional spaces which could be used for restaurant seating and that there is an oversupply of public houses in the area.

7.19. The applicant makes the point that an existing up-stairs area is unsuitable for serving food and that Covid related social distancing cannot be met in that area, and secondly, that the site is appropriately zoned for neighbourhood centre uses and that there is not an oversupply of pubs in the area.

7.20. The Board must assess the application as presented to it having regard to the other factors considered above. I conclude that the proposed development is an appropriate amendment to an existing permitted use.

**7.21. Duration of Permission.**

7.22. The planning authority granted permission for 6 months with the possibility of a further 6 months in agreement with the planning authority. Having regard to the rationale for the application; to allow for social distancing during the Covid pandemic and in order to give clarity I recommend a lifetime of one year for the permission. This will allow the planning authority to assess the impact over a full year and to ensure that the conditions imposed, which seek to manage the impacts on adjoining residential uses, are implemented and respected.

## **8.0 Recommendation**

8.1. I recommend granting planning permission.

## **9.0 Reasons and Considerations**

9.1. Having regard to the location of the proposed development in an area zoned NC neighbourhood centre with the objective “to protect, provide for and-or improve mixed use neighbourhood centre facilities” in the Dun Laoghaire Rathdown County Development Plan 2016-2022, the modest nature of the proposed change of use of an existing car parking area to outdoor seating and subject to the conditions set out

below it is considered that the proposed development would not endanger public safety by reason of traffic hazard or seriously injure the visual or residential amenity of the area and would accord with the zoning objective set out in the current County Development Plan and with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>This planning permission shall cease to have effect one year from the date of this order.</p> <p><b>Reason:</b> To allow the planning authority to monitor the implementation and adherence to the conditions set out in this grant of planning permission.</p>
3.	<p>Provision shall be made for a deliveries/loading bay on Beaumont Avenue. Prior to commencement of the use permitted by this grant of permission details of the bay dimensions and road markings shall be submitted to, and agreed in writing with, the planning authority.</p> <p><b>Reason:</b> To ensure a satisfactory layout for commercial vehicles, in the interest of traffic safety.</p>
4.	<p>No music or amplified sound shall be audible outside the premises in such a manner as to cause nuisance to the occupants of nearby property.</p>

	<b>Reason:</b> In the interest of amenity.
5.	The hours of operation shall be between 1200 hours and 2300 hours Monday to Friday and between 1200 hours and 2200 hours on Saturday and Sunday.  <b>Reason:</b> In the interest of the residential amenities of property in the vicinity.

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Hugh Mannion  
Senior Planning Inspector

18<sup>th</sup> November 2020