



An
Bord
Pleanála

Board Direction
BD-002874-19
ABP-303390-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 23/04/2019.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the zoning objective pertaining to the site, it is considered that subject to conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Note: The Board did not agree with the Inspector's view that it is precluded from considering whether the terms of the Development Contribution Scheme were correctly applied by the planning authority. However, it noted that the applicant's response to the third party appeal had not been circulated to the planning authority. The Board has directed that its standard, unspecified, section 48 condition be attached to its Order. The condition provides for the agreement between the planning authority and the developer as to details of the application of the terms of

the Scheme or, in default of such agreement, for the matter to be referred to the Board for determination.

Conditions

1. 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 required details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The restaurant shall only operate between 09.00 hours and 23.00 hours Mondays to Sundays inclusive, without a prior grant of planning permission.

Reason: In the interest of residential amenity.

3. The operators of the premises shall control odours emissions from the restaurant in accordance with details and measures to be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

4. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

5. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

6. Details of all storage of refuse including food waste associated with the development shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of public health and visual amenity.

7. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location or at any point along the boundary of the site shall not exceed:-

- (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
- (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: To protect the residential amenities of property in the vicinity of the site.

8. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400

hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

9. The rooflights proposed shall be flush with the pitch of the roof.

Reason: In the interest of visual amenity.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Board Member

Date: 25/04/2019

John Connolly