

An
Bord
Pleanála

Board Direction
BD-007998-21
ABP-308681-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 26/04/2021.

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 existing restaurant use in the hotel at Nos. 26-32 Upper Rathmines Road, the confined, enclosed and limited size and small-scale nature of the proposed outdoor dining space at the rear of No. 36 Upper Rathmines Road, and the separation distance from adjoining residential properties to the east beyond the east boundary wall, it is considered that, subject to compliance with the conditions below, the proposed development would not seriously injure the residential amenities of adjoining properties by reason of noise and nuisance, overlooking or overspill of outdoor lighting, would not adversely affect the integrity, character and setting of the existing building which is included on the record of protected structures, or the residential conservation area, would not result in the intensification of use of the access route to the hotel carpark from Church Gardens and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the application as amended by the further plans and particulars lodged with the

planning authority except as may otherwise be required 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.

Reason: In the interest of clarity.

2. The duration of the grant of permission shall be for a three-year period from the date of the order, following which all structures and fittings shall be removed and the outdoor dining space returned to its original state, unless a prior grant of permission has been obtained.

Reason: In the interest of clarity.

3. Prior to the operation of the development, temporary fencing shown on Drawing 20147/2/DWG002 lodged with the application shall be erected along the eastern boundary and retained in place throughout the duration of the grant of permission.

Reason: In the interest of clarity and the protection of the residential amenities of adjoining properties.

4. Prior to the commencement of the development, the applicant shall submit to, and agree in writing with, the planning authority details of fencing to be erected on the southern boundary with the adjoining property at No. 38 Upper Rathmines Road. It shall be erected prior to the operation of the outdoor dining and retained in place throughout the duration of the grant of permission.

Reason: In the interest of clarity and the protection of the residential amenities of the adjoining properties.

5. The hours of operation shall be confined to the hours of 12.00 pm to 9.30 pm Monday to Sunday inclusive. There shall be no amplified music, live music or other form of outdoor entertainment, including television screens and broadcasting, at the proposed outdoor dining space.

Reason: In the interest of clarity and the protection of the residential amenities of the adjoining properties.

6. (a) Noise levels from the proposed development shall not be so loud, so continuous, of such duration and pitch and occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place.

(b) The noise level arising from the outdoor dining area, as measured at the nearest noise sensitive location 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.

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

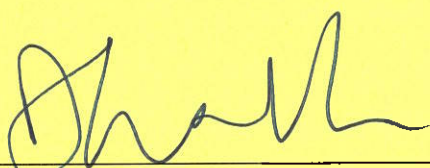
Reason: To protect the residential amenities of property in the vicinity of the site.

7. 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. The contribution shall be paid prior to the

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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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



Dave Walsh

Date: 26/04/2021