

An  
Bord  
Pleanála

**Board Direction**  
**BD-008641-21**  
**ABP-309063-20**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 01/07/2021.

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**

The proposed mixed use development, in the centre of Malahide, would provide for additional mixed use development of a suitable scale and design to achieve a reasonable density of development on this centrally located site, would be appropriate to the general scale of the area, would not conflict with the character of the Architectural Conservation Area or be visually incongruous in the streetscape, would not be injurious to the residential amenities of adjoining properties or future residents, would enhance the visual amenities of the area and comply with the objectives of the Fingal Development Plan 2017-2023 and would, subject to the following conditions, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 6th day of November 2020, and by the further plans and particulars received by An Bord Pleanála on the 1st day of February, 2021 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>Windows and doors shall be timber or metal and details of all materials and finishes shall otherwise be as per drawings submitted unless agreed in writing by the planning authority.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
3.	<p>The landscape plan submitted to the Planning Authority on the 6<sup>th</sup> November 2020 shall be implemented at the first planting season after the completion of construction.</p> <p><b>Reason:</b> In accordance with the proper planning and sustainable development of the area</p>
4.	<p>All bathroom / en suite windows shall be fitted and permanently maintained with obscure glass. The use of film is not acceptable.</p> <p><b>Reason:</b> In the interests of residential amenity.</p>

5.	<p>Prior to the commencement of development, the applicant shall submit an amended site layout plan for the written agreement of the Planning Authority indicating that 1 no. parking space is dedicated and reserved for each of the 6 no. apartment units and 2 no. parking spaces are dedicated and reserved for use by staff of the restaurant unit.</p> <p><b>Reason:</b> In the interest of clarity.</p>
6.	<p>Details of the 'access control to provide open area for residents only' shown at the eastern side of the building, to prevent restaurant patrons from accessing the garden, and ensure it is available for use by residents of the apartments only, shall be submitted to and agreed in writing with the Planning Authority, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
7.	<p>The existing and predicted noise environment of the site shall be assessed with consideration for future airport growth; and appropriate noise mitigation measures shall be implemented as required by the Fingal Development Plan 2017-2023; details shall be submitted to and agreed in writing with the Planning Authority, prior to commencement of development</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
8.	<p>Prior to occupation of any part of the development, details of a Management Scheme providing adequate measures relating to the future maintenance of open spaces, roads, parking and communal areas in a satisfactory manner shall be submitted to and agreed in writing with the Planning Authority.</p> <p><b>Reason:</b> To ensure the adequate future maintenance of this development in the interest of residential amenity.</p>

9.	<p>The hours of operation of the proposed restaurant shall be from 0900 to 2400 Monday to Sunday including Bank Holidays unless otherwise agreed in writing by the planning authority.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
10.	<p>Goods deliveries to the restaurant hereby permitted shall not be carried out between the hours of 2300 and 0700.</p> <p><b>Reason:</b> To protect the amenities of the area.</p>
11.	<p>No music or to other amplified sound shall be broadcast externally. Noise emanating from the premises shall be such as not to cause nuisance to the occupants of adjacent properties and users of the public road.</p> <p><b>Reason:</b> To protect the amenities of the area.</p>
12.	<p>The following requirements shall be complied with in full:</p> <ul style="list-style-type: none"> <li>(i) The development hereby permitted shall not cause a noise nuisance to nearby noise sensitive locations and shall not exceed the background level by 10 dB(A) or more or exceed NG4 limits whichever is lesser. Daytime (07:00 to 19:00 hrs) – 55dB Evening (19:00 to 23:00 hrs) – 50dB Night-time (23:00 to 07:00 hrs) – 45dB - measured from the nearest noise sensitive locations(s).</li> <li>(ii) Clearly audible and impulsive tones at noise sensitive locations during evening and night shall be avoided irrespective of the noise level.</li> <li>(iii) The development hereby permitted shall be so operated that there will be no emissions of malodours, gas, dust, fumes or other deleterious materials, no noise vibration on site as would give reasonable cause for annoyance to any person in any residence, adjoining unit or public place in the vicinity.</li> </ul>

	<p><b>Reason:</b> To protect the amenities of the area.</p>
13.	<p>No additional advertising signs or structures shall be erected externally or on the front façade of the premises except those which are exempted development, without the prior written approval of the Planning Authority</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
14.	<p>Windows shall be clear and devoid of window graphics and shall comprise clear glazing, except where otherwise required by condition or agreed in writing with the Planning Authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
15.	<p>An acceptable naming and apartment numbering scheme be submitted to the Council for written agreement prior to the commencement of any works on site.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
16.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 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.</p> <p><b>Reason:</b> In order to safeguard the amenities of property in the vicinity.</p>

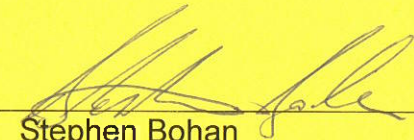
17.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and amenity.</p>
18.	<p>Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
19.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health and to ensure a proper standard of development.</p>
20.	<p>All public services to the proposed development, including electrical, telephone cables and associated equipment be located underground throughout the entire site.</p> <p><b>Reason:</b> In the interest of amenity.</p>
21.	<p>A minimum of 4 car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be</p>

	<p>submitted to, and agreed in writing with, the Planning Authority prior to the occupation of the development.</p> <p><b>Reason:</b> To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles</p>
22.	<p>The developer shall pay to the planning authority a financial contribution in respect of the shortfall of 225 square metres of public open space in the area of the planning 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.</p> <p><b>Reason:</b> 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.</p>
23.	<p>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</p>

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**

  
Stephen Bohan

**Date:** 01/07/2021