

An
Bord
Pleanála

**Board Direction
ABP-314088-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/05/2024.

The Board decided, as set out in the following Order, that

Board Order as follows:-

WHEREAS a question has arisen as follows:

I wish to have a Section 5 assessment in this application for the following reasons:

1. The previous Section 5 did not take into account ENF14221 decision.
2. This area provides a safe area for customers to dine + drink in fine weather.
3. The residents do not have any objection to the outdoor area.
4. There is a outdoor defibrillator for this area for community use.
5. The area is now safer for customers + children with the picket fence in place.
- 6 . There is now a pedestrian walkway demarcated instead of parking access.

AND WHEREAS Mr Paul Cosgrave, director of Cosgrave Mount Merrion Limited, owner and operator of the Druids Chair public house requested a declaration on this question from Dun Laoghaire Rathdown County Council and the Council issued a declaration on the 17th day of June 2022 stating that by reference to items 2, 3, 5

and 6, the matter constitutes development and does not constitute exempted development

AND WHEREAS Mr. Paul Cosgrave referred this declaration for review to An Bord Pleanála on the 13th day of July 2022.

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to:

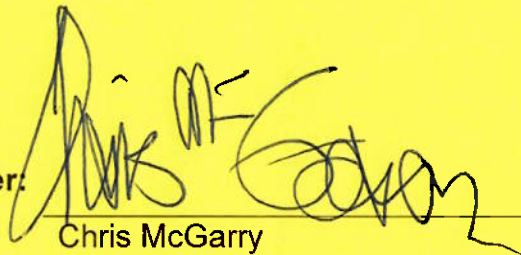
- (a) Section 2(1), 3(1), 4(1)(h), 5, 50, 82(1) and 138 of the Planning and Development Act, 2000, as amended,
- (b) Article 10(1) of Part 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (c) The previous Section 5 referral determined by the planning authority in respect of the same land under referral Ref3522,
- (d) The judgement of the Court of Appeal in *Narconon Trust v An Bord Pleanála* (2021) IECA 307,
- (e) Precedent Section 5 referrals ABP-309231-21, ABP-310086-21 and ABP-310237-21

AND WHEREAS An Bord Pleanála has concluded that:

Having regard to the nature of the question raised in the referral, the board is of the opinion that the 'question' consists of a series of statements and that a valid question or questions have not in fact been raised in the referral, and the board has concluded that the question/s cannot be properly addressed or decided in isolation within the meaning of Section 5 of the Planning and Development Act 2000, as amended.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby has decided to exercise its discretion to dismiss this referral under Section 138(1)(b)(1) (nature of the question raised) of the Planning and Development Act 2000, as amended.

Board Member:



Chris McGarry

Date: 09/05/2024