



An
Bord
Pleanála

Board Direction
BD-015979-24
ABP-314509-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 26/03/2024.

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 location of the site, in a newly redeveloped urban block, and to the mixed use character and pattern of development and uses in the area, to the Z10 zoning objective of the site and to the relevant policies and objectives of the current Dublin City Development Plan, the Board considered that, subject to compliance with the conditions set out below, the proposed change of use of a permitted restaurant, including outdoor seating area, and retail unit, to a public house/restaurant with outdoor seating area, would not seriously injure the residential amenities of the area or depreciate the value of property in the vicinity and would not negatively affect the character of area 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 plans and particulars lodged with the application, as amended by the

revised plans and particulars submitted on 18th of July 2022 and as further amended by the plans and particulars submitted to An Bord Pleanála on 1st September 2022, 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.

Reason: In the interest of clarity.

2. The proposed development shall be operated in accordance with management measures set out in the Bar and External Customer Management Plan submitted to the planning authority on the 18th of July 2022, except as may otherwise be required in order to comply with the following conditions.

Reason: in the interest of clarity and residential amenity.

3. Public opening hours of the proposed development shall be confined to:
 - a) Sunday to Thursday 07:00 – 23:00
 - b) Friday and Saturday 07:00 – 23:30

Reason: To protect the amenities of the area.

4. The external seating area shall extend to 94sqm and have a maximum capacity of 58 persons all of whom must be seated, in accordance with the revised plan submitted to the board on the 1st of September 2022. Prior to the commencement of development detailed and dimensioned plans and elevations and a seating plan, at a scale of 1:100, will be submitted to and agreed in writing with the planning authority confirming the extent and type of seating to be provided as well as any proposed boundary treatments.

Reason: In the interest of residential amenity and in the interest of clarity.

5. The applicant/operator of the premises shall comply with the following requirements

- (a) No music or any other sound for entertainment shall be amplified in or outside the premises on the site.
- (b) The external seating area shall not be used between the hours of 2200 and 0900 hours.
- (c) All doors / windows in the premises other than designated access doors shall be from fully closed between 2200 and 0900 hours. Prior to the commencement of development the applicant shall submit a floor plan to the planning authority for written agreement indicating the location/s of the designated access doors to the premises.
- (d) The take away service shall not operate after 2200 hours daily.

Reason: To protect the amenities of the area and adjacent properties.

6. The applicant/operator of the premises shall comply with the following requirements:

- (a) Noise levels to be monitored for a period a one week prior to commencement of development to establish a background noise level at NSL1, NSL2 and NSL3 as identified in the Figure 4 of the Noise Assessment dated 15th July 2022, to establish the background noise level and the results of same shall be submitted to the planning authority for its records.
- (b) Noise emanating from the premises shall not exceed the background noise level at NSL1, NSL2 and NSL3 by more than 3dB(A) during the period from 0700 to 2200 hours and by 1 dB(A) at any other time. The background level shall be taken as L90 and the specific noise shall be measures at LAeqT.
- (c) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedence criteria in relation to background and operational noise levels as set out in (b) above. The background noise levels shall be measured at LAeqT.

(d) When measuring the specific noise, the time (T) shall be any five minute period during which the sound emission from the premises is at its maximum level.

(e) Any measuring instrument shall be precision grade.

Detailed plans and particulars indicating sound-proofing or other measures required to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to use of the premises as a public house/restaurant. An acoustical analysis shall be included with this submission to the planning authority.

Reason: In order to protect the amenities of residential property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during operating hours.

7. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 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.

8. The developer shall control odour emissions from the premises in accordance with measures (including extract duct details) which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

9. The construction of the proposed 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 proposed development, including noise management measures, traffic management and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

10. Prior to the commencement of development, the applicant shall submit to and agree in writing with the planning authority a detailed servicing management plan in respect of deliveries and the collection of wastes from the premises. The plan shall include delivery and collection times, locations parking for service vehicles and routes of movement of products and wastes to and from the premises.

Deliveries and collections are not permitted before until 8am Monday to Saturdays only, with no deliveries or collections permitted on Sundays.

Reason: In the interest of public safety and residential amenity.

11. Full specifications and detail of the proposed signage shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: To protect the visual amenities of the area.

Note: The Board noted the adoption of the Dublin City Development Plan 2022-2028, since the making of the decision by the planning authority and the lodgement of the appeal. However, having considered the full assessment of the proposed development by the inspector, including consideration of the relevant provisions of the Dublin City Development Plan 2022-2028, and the totality of all submissions on file, the Board considered that the substantive issues of relevance, such as impact on amenity, management of the proposed use, were all fully ventilated in the course of the application and appeal and that these issues remain appropriate to the assessment of the case regardless of the new development plan. In reaching this conclusion the Board noted the zoning of the site which supports the proposed use, the broader policies and objectives related to licensed premises, and the planning history of the site, including restaurant use and outdoor seating area on part of the overall floor area. It was determined that the proposed development is in accordance with the proper planning and sustainable development of the area.

Board Member



Chris McGarry

Date: 04/04/2024