

An  
Bord  
Pleanála

**Board Direction**  
**BD-018764-25**  
**ABP-320840-24**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 28/01/2025.

The Board decided to make a split decision, to

Grant permission, for the following reasons and considerations and subject to the following conditions for the retention of (i) the outdoor covered seating area (83.33m<sup>2</sup>) to the side and rear of the existing bar, (ii) the ground floor entrance and toilet area and toilet area at first floor level to the west of the main bar fronting onto the Glasheen Road, (iii) the toilet and laundry room at first floor level to the rear of the bar along the eastern boundary of the site, based on the reasons and considerations set out below:

### **Reasons and Considerations**

It is considered that the proposed development for which the retention of planning permission is sought subject to conditions set out below, would not seriously injure the amenities of the area in terms of excessive noise and disturbance, would not be out of character with the main bar on site, would not be prejudicial to public health and would generally be acceptable in term of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

### **Conditions**

1. The development shall be retained 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 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. During the operational phase of the proposed development the noise level shall not exceed (a) 55 dB(A) rated sound level between the hours of 0700 to 2300, and (b) 45 dB(A) 15min and 60 dB LAfmax, 15min at all other times , (corrected for a tonal or impulsive component) as measured at the nearest dwelling  
Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. (a) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L90 15 mins and the specific noise shall be measured at LAeq.T 15min.  
  
(b) Between the hours of 2200 and 0600 the octave band centre frequencies of noise emissions at 63 32 Hz and at 125 Hz measured using the LZeq, 5min metric shall not exceed the equivalent representative L90 Octave Band levels and shall be subject to the same locational and decibel exceedance criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.

(c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating;

either

(i) during a temporary shutdown of the specific noise source,

or

(ii) during a period immediately before or after the specific noise source operates.

(d) When measuring the specific noise, the time (T) shall be any five 15 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 to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority within one month of the date of this order. An acoustical analysis shall be included with this submission to the planning authority. The agreed sound proofing shall be installed before the commencement of development.

**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 night-time hours.

4. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

**Reason:** To prevent flooding and in the interests of sustainable drainage.

5. The developer shall ensure that the development is served by adequate water supply and/or wastewater facilities and shall enter into a connection agreement (s) with Uisce Éireann (Irish Water) to provide for a service connections to the public water supply and/or wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

6. Details regarding the storage of kegs, crates, empty bottles, skips and other trade materials shall be submitted to the planning authority for written agreement prior to the commencement of development.

**Reason:** In the interest of orderly development and residential amenity.

7. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment and the amenities of properties in the vicinity.

8. Details of the proposed external finishes for the covered seating area to be retained shall be agreed in writing with the planning authority within 1 month of the date of this order, or in default of agreement shall be determined by An Board Pleanála. External finishes shall where necessary include measure to contain noise propagation from the seating area so as to comply with conditions 2 & 3 above.

**Reason:** In the interest of protecting residential amenity.

9. 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.

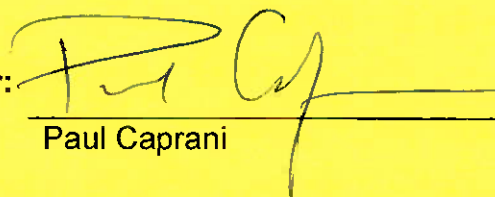
In deciding not to accept the inspectors recommendation to refuse retention of permission for the above developments, the Board considered that the retention of an outdoor seating area was acceptable having regard to the long established use of the public house in this residential area. It was further considered that with the implementation of the appropriate conditions regarding noise containment that the proposed development would not significantly affect the residential amenity of the residents in the area. It was noted that the outdoor seating area for which retention of planning permission is granted incorporates greater separation distances to the nearest residential dwellings than the retractable canopy area and various other structures to be retained, and for which planning permission was refused and therefore is less likely to give rise to significant noise generation.

and

Refuse permission for the external storage areas and the retractable canopy area as indicated on drawing 22235-MMS-ZZ-ST-DR-A-10000 submitted with the application generally in accordance with the Inspector's recommendation, for the following reasons and considerations.

1. By reason of the materials used including corrugated metal sheeting, and the general layout of substandard metal sheeting storage units, it is considered that the retention development would be visually unsatisfactory, haphazard, and inappropriate in the context of its location which is visible from the Glasheen Road. The retention development would adversely impact on the visual amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The storage areas and retractable canopy area to the rear of the site, adjacent to the eastern boundary, are in close proximity to the surrounding residential dwellings and it is considered that the of these elements of the development for which retention of planning permission is being sought, will give rise to excessive noise which will adversely impact on the residential amenity of residents in the immediate vicinity and would therefore be contrary to the proper planning and sustainable development of the area.

**Board Member:**

  
Paul Caprani

**Date:** 29/01/2025