

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Fingal County

Planning Register Reference Number: F15A/0140

An Bord Pleanála Reference Number: PL 06F.246483

APPEAL by J.J. Gibney Limited care of Eamonn Doyle Associates of Unit 13, Block 5, Port Tunnel Business Park, Clonshaugh Dublin and by The Townyard House Management Company Limited care of O'Neill Town Planning of Oakdene, Howth Road, Howth, County Dublin against the decision made on the 30th day of March, 2016 by Fingal County Council to grant subject to conditions a permission to the said J.J.Gibney Limited in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Change of use of existing first floor level flat roof to landscaped roof garden and sun terrace (214.0 square metres including circulation space) with dispense bar (31.0 square metres) and servery for customer use. Works to include perimeter screening along northern and southern elevations, raised seating area at southern boundary with fixed awning frame, retractable awning along eastern boundary, 1.0 metre wide access stairs from existing side entrance, eight-person lift from ground floor courtyard to first floor level, increase in eaves height of existing store building at north-east corner of courtyard and change of use of first floor level room (31.0 square metres) from general storage to dispense bar and disabled/staff toilet, alterations to rear elevation of number 5/6 New Street to form servery with access door from existing kitchen, lean-to canopy roof with slate finish along northern boundary wall of ground floor courtyard and all associated ancillary works. All works to be carried out at rear of existing licensed premises at Gibney's Bar, 5, 6 and 7 New Street, Malahide, County Dublin.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the town centre zoning of the site in the current Development Plan, the established public house on the site, the pattern of development in the area and the design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health 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 further plans and particulars submitted on the 3rd day of March, 2016, 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 two number dormer windows proposed on the southern elevation of the store building housing the dispense bar shall be omitted and replaced with conservation grade rooflights. Prior to the commencement of development, the developer shall submit details of same to the planning authority, for written approval.

Reason: In the interest of protecting visual amenity in an Architectural Conservation Area.

3. No public address system, amplified music, TV's or bands shall be permitted within the first floor landscaped roof garden and sun terrace. No sound amplification shall be installed in the garden or terrace or projected into the first floor from other areas of the licence premises, nor shall any television screen, or similar, be installed therein.

Reason: To protect the amenities of adjoining properties.

4. A noise monitoring programme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, to include an annual review undertaken by a qualified acoustic engineer at the nearest noise sensitive location. The developer shall carry out any amendments to the subject development requested by the planning authority subject to the review.

Reason: In the interest of protecting the amenity of the nearby residential properties.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. Notwithstanding the provisions of the Planning and Development Regulations 2001, as amended, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

7. The landscaped roof garden and sun terrace area shall not be occupied by the public outside of the following hours:-

11.00 hours to 22.30 hours seven days per week.

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 protect the residential amenities of property in the vicinity.

8. Prior to the commencement of development, the developer shall pay to the planning authority a financial contribution in lieu of car parking, to be agreed in writing with the planning authority.

Reason: In the interest of protecting the village centre location of the subject development.

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.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.