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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F18A/0383**

**Appeal** by Thomas Hynes of 1 The Priory, Main Street, Malahide, County Dublin and by others against the decision made on the 28<sup>th</sup> day of August, 2018 by Fingal County Council to grant subject to conditions a permission to Architects Workshop Limited of Suite 1, 20 Harcourt Street, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Permission for new stand-alone single storey restaurant of 103 square metres with ancillary takeaway with two number internal bin stores of 7 square metres each with outdoor seating for up to 20 patrons under existing covered side entrance with 8 number bicycle spaces with modifications to existing external fire escape from first floor of adjoining property with associated landscaping, site works and lighting at rear, at 32-36 Main Street, Malahide, Co. 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 condition(s) 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 village location, the 'TC – Town and District Centre' zoning, the nature and scale of the proposed development and to the planning history relating to the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be seriously injure the amenities of property in the vicinity, would contribute positively to the character of the Architectural Conservation Area and would be in accordance with the proper planning and sustainable development of the area.

## **Conditions**

Having regard to the village location, the 'TC – Town and District Centre' zoning, the nature and scale of the proposed development and to the planning

history relating to the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be seriously injurious to the amenities of property in the vicinity, would contribute positively to the character of the Architectural Conservation Area and would be in accordance with the proper planning and 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, 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 outdoor seating area is omitted from this permission. This area shall not be used for any purpose in connection with the proposed restaurant and ancillary takeaway without prior benefit of a separate planning permission.

**Reason:** To enable a full assessment of the likely impacts arising from the use of this area on the amenities of property in the vicinity.

3. The takeaway shall be ancillary to the main use of the premises as a restaurant and shall only operate at times when the restaurant is open for business.

**Reason:** In the interest of clarity and to protect the amenities of property in the vicinity.

4. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling shall not exceed:
  - (i) An Leq, 1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday Inclusive.
  - (ii) An Leq, 15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

(b) All sound measurements shall be carried out in accordance with ISO Recommendation 1996:2007 Acoustics – Description and Measurement of Environmental Noise.

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

5. The developer shall control odour emissions from the premises in accordance with measures 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 property in the vicinity.

6. 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 the commencement of development. This plan shall provide details of

intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

7. Site development and building works shall be carried out only between the hours of 0800 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.

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

8. The hours of operation of the proposed restaurant shall be from 0900 to 2400 Monday to Sunday including Bank Holidays. The hours of operation of the proposed restaurant shall be from 0900 to 2400 Monday to Sunday including Bank Holidays. The hours of operation of the proposed restaurant shall be from 0900 to 2400 Monday to Sunday including Bank Holidays.

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

9. A plan containing details of the management of waste (and, in particular, recyclable materials) within the development shall be submitted to, and agreed in writing with the planning authority prior to the first use of the premises as a restaurant and ancillary takeaway.

Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate indoor refuse storage.

10. Prior to the commencement of development, the developer shall agree with the planning authority details of the following:

(a) signage and a colour scheme for the façade addressing Main Street,

(b) details for the proposed entrance onto Main Street.

(c) Details of the proposed extractor system for the restaurant.

**Reason:** In the interest of visual and residential amenity.

11. 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.

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

**Dated this            day of            2019.**