

An  
Bord  
Pleanála

Board Order  
ABP-309690-21

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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F21A/0009**

**Appeal** by Siam Thai Restaurant Limited care of J.G. Consulting of Corrymeela, Church Road, Malahide, County Dublin against the decision made on the 1<sup>st</sup> day of March, 2021 by Fingal County Council to refuse a permission for the proposed development.

**Proposed Development:** Change of use of existing first floor level flat roof over kitchen to landscaped roof garden and smoking terrace (83.3 square metres) with lobby and access door from existing first floor restaurant, works to include perimeter planting and all associated ancillary works to be carried out at rear of premises at 1-3 The Green, Malahide, County Dublin.

## **Decision**

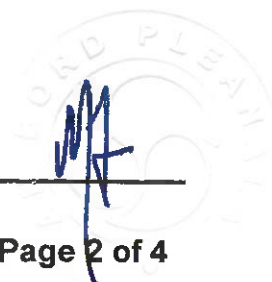
**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **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 location of the proposed development and the 'TC - Town and District Centre' zoning objective relating to the site, it is considered that, subject to compliance with the conditions set out below, the proposed change of use of the existing first floor flat roof over the existing single storey kitchen extension to the rear of the Siam Thai Restaurant to a landscaped roof garden and smoking terrace with a lobby and access door from the existing first floor restaurant, would not impact on the residential amenity of neighbouring property, would not be prejudicial to public health and would not unduly impact on the character of the Architectural Conservation Area in which it is located. The proposed development 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, 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.
  - (i) The hours of use of the roof garden to the rear of the restaurant shall be limited to between 1200 hours and 2200 hours daily.
  - (ii) Live and/or amplified music entertainment shall not be played within the roof garden to the rear of the premises.
  - (iii) No dispensing of food or drink shall take place on the roof garden.

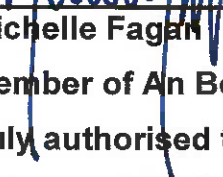
**Reason:** In the interest of the residential amenity of properties in the vicinity.

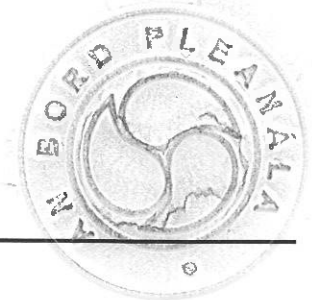
3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

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



Dated this *30<sup>th</sup>* day of *August* 2021.