

An  
Bord  
Pleanála

Board Order  
ABP-310079-21

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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Dublin City Council**

**Planning Register Reference Number: 3905/20**

**Appeal** by John Craddock and others care of Peter P. Gillett and Associates of 55 Glencarrig, Sutton, Dublin against the decision made on the 1<sup>st</sup> day of April, 2021 by Dublin City Council to grant subject to conditions a permission to Dave Murnane and Sinead Costello care of Hughes Planning and Development Consultants of 70 Pearse Street, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** (i) Construction of: (a) one number 35 square metre (eight metres by 4.4 metres) enclosed outdoor dining area to the front of Kanoodle, number 322 Clontarf Road and (b) one number 32 square metre (eight metres by four metres) enclosed outdoor dining area to the front of Fishbone, number 324 Clontarf Road. The proposed outdoor areas will be accessed internally from the main restaurant and includes a fire escape door onto the pedestrian footpath. The proposed structures will be finished with light weight aluminum frames, fixed glass side panels, with adjustable louvres vents on the roof and (ii) all ancillary works necessary to facilitate the development. All at numbers 322 and 324 Clontarf Road, 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 nature, scale and design of the proposed development, the pattern of development in the area and the zoning objective for the site in the Dublin City Development Plan 2016-22, it is considered that, subject to compliance with the conditions set out below, the proposed development would not give rise to serious injury to the amenities of the area or of property in the vicinity and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to S 34(13) of the Planning and Development Act, 2000, as amended, whereby a person shall not be entitled solely by reason of a permission to carry out any development. Contrary to the view expressed by the Inspector, the Board considered that this provision satisfactorily addresses the matters raised by the third parties.

In addition, the Board considered the nature, scale and extent of the development to be appropriate in the context of the size and location of the site and considered the non-provision of car parking to be acceptable in the context of the surrounding area. It also considered the overall standard of the proposed development to be acceptable and would not result in overdevelopment of the site and that the proposed development would not give rise to serious injury to residential amenities. The Board considered the public notices submitted with the planning application to adequately describe the nature and extent of development.

## 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 5<sup>th</sup> day of March, 2021, 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 amended as follows:

The block wall partition between the individual outdoor seating areas to serve each restaurant shall be omitted and the entirety of the structure shall be constructed of a steel support system. A suitable windbreak or partition of similar materials to the proposed structure or other suitable materials may be provided in place of the block wall to allow for division between the outdoor seating areas to serve each restaurant.

Prior to commencement of development, revised plans, sections and elevations showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of orderly development and to address concerns that the block wall partition would have an obtrusive appearance particularly when the awning and side panels have been retracted during periods of good weather.

3. The outdoor seating areas to numbers 322 and 324 Clontarf Road shall comply with the following:
- (a) The outdoor covered seating/dining hereby approved shall be restricted in use to between the hours of 1000 and 2200 Mondays to Sundays and shall have no loudspeakers, music or television provided within or to this area.
  - (b) The windbreakers shall display no commercial advertising save for the name of the restaurant/takeaway.

- (c) The supporting frame shall be demounted during any extended period of non-use of the awning structure covering the outdoor seating area (that is, one month or more).
- (d) All external heating systems and lighting directly associated with the outdoor seating area shall be removed once the retractable awning structure is permanently removed from the site.

**Reason:** In the interests of orderly development and the visual and residential amenities of the area.

- 4. Site development and building works shall be carried out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

- 5. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

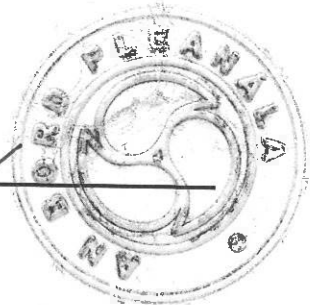
**Reason:** In the interest of public health.

6. 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.

  
Terry Prendergast

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



Dated this 13<sup>th</sup> day of August 2021.