

Planning and Development Acts 2000 to 2020

Planning Authority: Dublin City Council

Planning Register Reference Number: 3142/20

Appeal by Michael Windrim and Others care of Hendrik W. van der Kamp of 1, Woodstown Court, Knocklyon, Dublin against the decision made on the 21st day of June, 2021 by Dublin City Council to grant subject to conditions a permission to Martin Tynan care of Keenan Lynch Architects of 4 Herbert Place, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Retention of an existing rear bar area and associated toilet accommodation at ground floor level and planning permission to install a new timber screen wall, 1,500 millimetres high, to the south and west walls of the existing smoking yard, all at Kennedy's Public House at 132, 134 Lower Drumcondra Road, Drumcondra, Dublin.

Decision

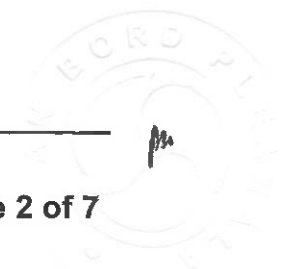
GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

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 zoning objectives for the area, as set out in the Dublin City Development Plan 2017 - 2023, to the established use on the site and to the nature 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 residential amenities of the wider area in terms of excessive noise and general disturbance or traffic congestion, would not be prejudicial to public health and would, therefore, be in accordance with the proper planning and sustainable development in the area.



Conditions

1. The development shall be retained, 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 25th day of May, 2021 and the unsolicited information submitted on the 15th day of June, 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 retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The main public bar and proposed rear bar shall be jointly operated as a single public house and the proposed rear bar shall not be sold, let, operated or otherwise transferred or conveyed, save as part of the main existing public bar.

Reason: In the interest of clarity.

3. The rear bar to be retained shall not operate outside the hours of between 1030 and 2330 from Mondays to Thursdays inclusive, outside the hours of between 1030 and 0030 on Fridays and Saturdays inclusive and/or outside the hours of between 1230 and 2300 on Sundays.

Reason: In order to protect the amenities of residential property in the vicinity.

4. (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 and the specific noise shall be measured at LAeq,T.
- (b) 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.
- (c) When measuring the specific noise, the time (T) shall be any five-minute period during which the sound emission from the premises is at its maximum level.
- (d) 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 prior to use of the premises. An acoustical analysis shall be included with this submission to the planning authority.

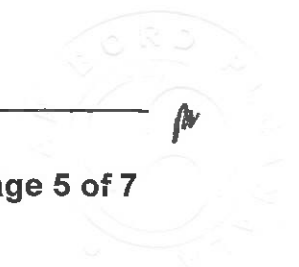
Reason: In order to protect the amenities of residential property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during night-time hours.

5. (a) All entrance doors in the external envelope shall be tightly fitting and self-closing.
- (b) All windows shall be double-glazed and tightly fitting.
- (c) The rooflights over the rear bar shall be fitted with solid glazing as specified in the Noise Impact Assessment (dated 21st May, 2021) submitted with the application.
- (d) Noise attenuators shall be fitted to any openings required for ventilation or air conditioning purposes. Details indicating the proposed methods of compliance with the above requirements 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.

6. Notwithstanding the provisions of the Planning and Development Regulations, 2001, 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 timber screen 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.



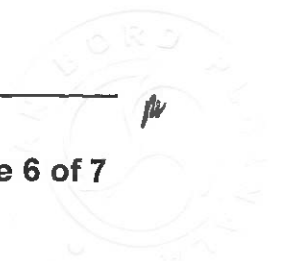
7. Site development and building works shall be carried out only between the hours of 0700 and 1800 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

8. 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.

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.

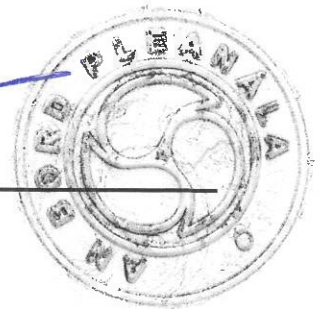


Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Paul Hyde

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



Dated this 29th day of NOVEMBER 2021.