



---

**Planning and Development Acts 2000 to 2021**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: SFL/005/22**

**Appeal** by Jonathan Law of 40 Saint Margaret's Road, Malahide, County Dublin against the decision made by Fingal County Council to renew the grant of a licence to J.J. Gibney Limited of 5, 6 and 7, New Street, Malahide, County Dublin.

**Licence Application:** Licence to place and maintain 27 tables, 54 chairs, 10 parasols and one windbreaker in an area of 80.25 square metres subject to a minimum footpath clearance of 1.8 metres at Gibney's, 5 – 7 New Street, Malahide, County Dublin.

**Decision**

In exercise of the powers conferred on it under section 254 of the Planning and Development Act, 2000, as amended, An Bord Pleanála directs the planning authority to **GRANT** a licence, based on the reasons and considerations under and subject to the conditions set out below.

## Reasons and Considerations

Having regard to the nature and extent of the proposed development for which a street licence is sought, to the temporary period of time for which the licence is sought, and to the location of the area on the eastern side of the currently pedestrianised New Street, it is considered that, subject to compliance with the conditions set out below, the temporary use of the street as an outdoor seating/serving area for Gibney's on New Street would not seriously injure the amenities of the area, including the amenities of residential properties, would not have an adverse effect on the character and setting of the designated Architectural Conservation Area and would not be prejudicial to public safety by reason of traffic hazard. 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 grant the appeal and to refuse the licence, the Board considered the documentation submitted on file and considered that, having regard to the modest scale of the area proposed to be utilised under the licence, the short temporary period for which the licence was sought and having regard also to the conditions set out in this decision, there would be no adverse effects on the character and setting of the Architectural Conservation Area and that the proposed development would not seriously injure the amenities of the area, including that of residential properties in the vicinity.

## Conditions

1. Street furniture may be placed on the eastern side of New Street adjoining Gibney's premises in an area measuring 80.25 square metres. The street furniture shall be arranged and maintained so as to maintain a minimum footpath clearance of 1.8 metres and so as not to obstruct the free flow of pedestrian traffic.

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

2. Street furniture shall only be placed at the above location between 1100 hours to 2100 hours. All items covered under this licence shall be removed outside of these hours.

**Reason:** In the interest of the amenities of the area.

3. Street furniture shall be maintained in a safe, clean and tidy condition. Adequate waste management facilities shall be maintained at the site by the applicant.

**Reason:** In the interest of the visual amenities of the area.

4. No outside amplification/speakers/live entertainment shall be permitted without prior written consent from the planning authority, and no speaker or amplifier within these premises shall be configured in such a manner as to project sound onto the public footway.

**Reason:** In the interest of the amenities of the area.

5. All appropriate public liability insurances shall be in place for the duration of this licence.

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

6. The licence permitted by this Order shall expire on the 31<sup>st</sup> day of May, 2022.

**Reason:** In the interest of the amenities of the area.

*DR. Maria FitzGerald*

**Maria FitzGerald**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

Dated this 7<sup>th</sup> day of Sept. ' 2022.

