



Planning and Development Acts 2000 to 2021

Planning Authority: Fingal County Council

Planning Register Reference Number: SFL/009/22

APPEAL by Jonathan Law of 40 St Margaret's Road, Malahide, County Dublin against the decision of Fingal County Council to renew the grant of a licence to Cape Greko of Unit 1, First Floor, New Street, Malahide, County Dublin.

APPLICATION: Licence for four number tables, 10 number chairs, two number parasols, four number windbreakers, and two number heaters in an area of 12.5 square metres, and subject to a minimum footpath clearance of 1.8 metres, at Unit 1, First Floor, 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, based on the reasons and considerations under, refuses the appeal and directs the planning authority to grant a licence subject to the conditions set out below.

Reasons and Considerations

Having regard to the nature and extent of the 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 western 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 Cape Greko on New Street would not seriously injure the amenities of the area, including the amenity of residential properties, would not have an adverse effect on the character and setting of the designated Architectural Conservation Area and would be acceptable in terms of public and traffic safety. 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, no adverse effects on the character and setting of the Architectural Conservation Area or serious injury to the amenity of the area including residential properties in the vicinity would arise.

Conditions

1. Street furniture may be placed on the western side of New Street adjoining Cape Greko in an area measuring 12.5 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 to 2100 hours. All items covered under this licence shall be removed outside of these hours.

Reason: In the interest of the amenity 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 Cape Greko.

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

4. No outside amplification/speakers/live entertainment are 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 amenity 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 expires on the 31st 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 7th day of Sept. 2022.

