

An
Bord
Pleanála

Board Order
ABP-314088-22

Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: Ref5222

WHEREAS a question has arisen as follows:

I wish to have a Section 5 assessment in this application for the following reasons:

1. The previous Section 5 did not take into account ENF14221 decision.
2. This area provides a safe area for customers to dine + drink in fine weather.
3. The residents do not have any objection to the outdoor area.
4. There is a outdoor defibrillator for this area for community use.
5. The area is now safer for customers and children with the picket fence in place.
6. There is now a pedestrian walkway demarcated instead of parking access.

at The Druids Chair, Killiney Village, Killiney Hill Road, Killiney, County Dublin:

AND WHEREAS Paul Cosgrave, director of Cosgrave Mount Merrion Limited, owner and operator of the Druids Chair public house, care of Feargall Kenny of 45 Hainault Drive, Foxrock, Dublin requested a declaration on this question from Dún Laoghaire-Rathdown County Council and the Council issued a declaration on the 17th day of June 2022 stating that by reference to items 2, 3, 5 and 6, the matter constitutes development and does not constitute exempted development:

AND WHEREAS Paul Cosgrave referred this declaration for review to An Bord Pleanála on the 13th day of July 2022:

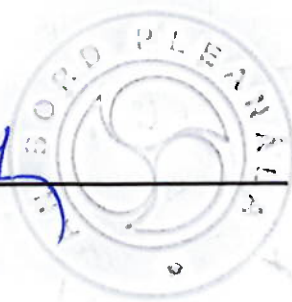
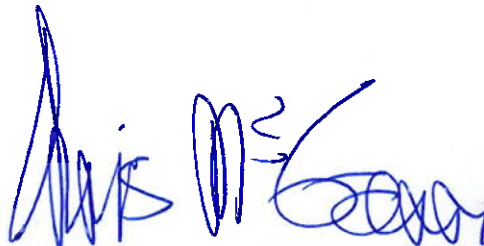
AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1), 3(1), 4(1)(h), 5, 50, 82(1) and 138 of the Planning and Development Act, 2000, as amended,
- (b) Article 10(1) of Part 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (c) the previous Section 5 referral determined by the planning authority in respect of the same land under referral Ref3522,
- (d) the judgement of the Court of Appeal in Narconon Trust v An Bord Pleanála (2021) IECA 307, and
- (e) precedent Section 5 referrals ABP-309231-21, ABP-310086-21 and ABP-310237-21:



AND WHEREAS An Bord Pleanála has concluded that, having regard to the nature of the question raised in the referral, the Board is of the opinion that the 'question' consists of a series of statements and that a valid question or questions have not in fact been raised in the referral, and the Board has also concluded that these statements cannot be properly addressed or decided in isolation within the meaning of Section 5 of the Planning and Development Act 2000, as amended:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, has hereby decided to exercise its discretion to dismiss this referral under Section 138(1)(b)(1) (nature of the question raised) of the Planning and Development Act 2000, as amended.



Chris McGarry

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

Dated this 20th day of May 2024.