



An
Bord
Pleanála

Board Order ABP 314484-22

Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D22A/0269

Appeal by Leopardstown Club Limited care of Tom Phillips and Associates of 80 Harcourt Street, Dublin against the decision made on the 3rd day of August, 2022 by Dún Laoghaire-Rathdown County Council in relation to the application by Leopardstown Club Limited for permission for development comprising alterations to that previously approved permission under planning register reference number D17A/0258. Retention permission is sought for an additional 10 square metres of retail space on level 2. The existing layouts on all levels remain unchanged, as shown on the submitted plans. Planning permission is sought for the change of use from nightclub to recreational use of identified areas on levels 2, 3 and 4. Planning permission is sought to permit the continued sale and consumption of alcohol on the premises which includes the existing external terrace as granted under planning register reference number D17A/0258 all at Icon Centre, Pavilion Building, Leopardstown Racecourse, Foxrock, Dublin in accordance with the plans and particulars lodged with the said Council (which decision was to grant permission subject to conditions for retention of an additional 10 square metres of retail space on level 2, and the continued sale and consumption of alcohol on the premises which includes the existing external terrace as granted under planning register reference number D17A/0258 and to refuse permission for change of use from a nightclub to recreational use on areas shown on the drawings on levels 2, 3 and 4).

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.

Reasons and Considerations

The Board decided that, having regard to the totality of the development plan, including Section 13.1.5 and Specific Planning Objective 49, the application could be considered within the current zoning and the proposed development and development proposed for retention, subject to compliance with the conditions set out below, would not adversely impact the zoning objective. 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 were mindful of and shared the opinion of the planning authority that this is a leisure facility.

However, the Board decided -

1. Section 13.1.5. of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 states "uses which are not indicated as 'Permitted in Principle' or 'Open for Consideration' will not be permitted. There may, however, be other uses not specifically mentioned throughout the Use Tables, that may be considered on a case-by-case basis in relation to the general policies of the development plan and to the zoning objectives for the area in question" and that this allows the application to be considered and not be automatically considered to be a material contravention.

2. That the purpose of the zoning is to “preserve and provide open space with ancillary active recreational amenities”, that the application was for a change of use of an existing, established, commercial activity which is associated with a major leisure facility, and that the change of use would not adversely impact as the development would have no impact on public open space.
3. That Specific Local Objective number 49 supports the application for Change of Use, by explicitly seeking to “support the status of and continued viability of Leopardstown Racecourse as one of Europe’s premier racetracks and a major leisure facility in the county by encouraging it’s future development and facilitating the development of supporting facilities.”

Conditions

1. The proposed development and development proposed for retention shall be retained and completed in accordance with the plans and particulars lodged with the application, as amended by the further information received by the planning authority on the 11th day of July, 2022, 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 and the proposed development and development proposed for retention shall be retained and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Save for amendments granted on foot of this permission, the proposed development and development proposed for retention shall otherwise be carried out in strict accordance with the terms and conditions of planning register reference number D17A/0258, save as may be required by the other conditions attached hereto.

Reason: In the interest of the proper planning and sustainable development of the area.

3. Special consideration shall be given to any proposed extractor fans/air conditioning or refrigeration units, in order to prevent nuisance from noise or odours to residents in close proximity to the premises. Clearly audible and impulsive tones at noise sensitive locations during evening and night-time shall be avoided irrespective of the noise level.

Reason: In the interest of adjoining residents/tenants amenity.

4. Noise resulting from operations effecting nearby noise sensitive locations shall not exceed the background level by 10 dB(A) or more or exceed the Environmental Protection Agency document NG4 (Guidance Note for Noise: Licence Applications, Surveys and Assessments in relation to scheduled activities) limits whichever is lesser.

Daytime (0700 to 1900 hours) – 55 dB Laeqt

Evening (1900 to 2300 hours) – 50 dB Laeqt

Night-time (2300 to 0700 hours) – 45 dB Laeqt

Reason: In the interest of adjoining residents/tenants' amenity.

5. There shall be adequate storage for waste disposal and recycling facilities on site. Such storage facilities shall be pest proof and secure, the area shall be located so that it does not cause nuisance by way of smell, noise or attraction of vermin or animals to any area or neighbouring area. Bin storage facilities shall be adequately serviced with a water supply, drainage and ventilation.

Reason: In the interests of sustainable development and planning.

6. The restaurant shall open no earlier than 1000 hours on any day, shall close no later than 0030 hours on Thursdays, Fridays and Saturdays and no later than 12 midnight on any other day. No ancillary food delivery or collection services shall operate from the premises after these closing times.

Reason: In the interest of residential amenity.

7. 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 within three months of the date of this Order 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.



Liam Bergin

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

Dated this *05th* day of *June* 2024