

An
Bord
Pleanála

Board Order
ABP-314509-22

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 3275/22

Appeal by Charlemont Regeneration Limited care of McCutcheon Halley of Kreston House, Arran Court, Arran Quay, Dublin against the decision made on the 9th day of August, 2022 by Dublin City Council to refuse permission.

Proposed Development: Change of use and amalgamation of two units, Unit 5 and Unit 6 (otherwise known as Unit C and D), minor amendments, and erection of associated signage zones at ground floor level (south-western corner) of Block 2, which forms part of the permitted Charlemont Square development under planning register reference number 3742/10 (An Bord Pleanála reference number PL 29S.238212), as subsequently amended by planning register reference number 2286/12 (An Bord Pleanála reference number PL240620), planning register reference number 4443/16, planning register reference number 4152/17, planning register reference number 4562/18 and planning register reference number 4707/18 and planning register reference number 2178/20. The development comprises: amalgamation of Unit 5 and Unit 6 (otherwise known as Unit C and D). (gross floor area 360 square metres and 156 square metres) to provide for a single unit; change of use from permitted restaurant (360 square metres) and retail (156 square metres) to licensed premises with restaurant; reconfiguration of internal layout to include a

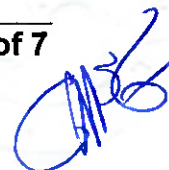
kitchen, staff area, and WC facilities, and provision of an outdoor seating area; and erection of six number illuminated signage zones, including four number affixed on the south-west elevation and two number affixed on the west elevation at ground-floor level (total area circa 2.4 square metres), all at Charlemont Street/Tom Kelly Road, Dublin.

Decision

GRANT permission for the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the location of the site, in a newly redeveloped urban block, and the mixed use character and pattern of development and uses in the area, the Z10 zoning objective of the site, and the relevant policies and objectives of the Dublin City Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed change of use of a permitted restaurant, including outdoor seating area, and retail unit, to a public house/restaurant with outdoor seating area, would not seriously injure the residential amenities of the area or depreciate the value of property in the vicinity, would not negatively affect the character of area and would, therefore, be in accordance with the proper planning and sustainable development of the area.



Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the revised plans and particulars received by the planning authority on the 18th day of July, 2022 and the further plans and particulars received by An Bord Pleanála on the 1st day of September, 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 prior to commencement of development and the proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be operated in accordance with management measures set out in the Bar and External Customer Management Plan received by the planning authority on the 18th day of July 2022, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and residential amenity.

3. Public opening hours of the proposed development shall be confined to:

(a) Sunday to Thursday 0700 – 2300

(b) Friday and Saturday 0700 – 2330

Reason: To protect the amenities of the area.

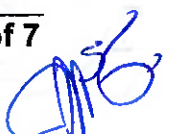


4. The external seating area shall extend to 94 square metres and have a maximum capacity of 58 persons all of whom must be seated, in accordance with the revised plans and particulars received by An Bord Pleanála on the 1st day of September, 2022. Prior to commencement of development, detailed and dimensioned plans and elevations and a seating plan, at a scale of 1:100, shall be submitted to, and agreed in writing with, the planning authority confirming the extent and type of seating to be provided as well as any proposed boundary treatments.

Reason: In the interest of residential amenity and in the interest of clarity.

5. The developer/operator of the premises shall comply with the following requirements:
- (a) No music or any other sound for entertainment shall be amplified in or outside the premises on the site.
 - (b) The external seating area shall not be used between the hours of 2200 and 0900.
 - (c) All doors/windows in the premises, other than designated access doors, shall be fully closed between 2200 and 0900 hours. Prior to commencement of development, the developer shall submit a floor plan to the planning authority for written agreement indicating the location/s of the designated access doors to the premises.
 - (d) The take-away service shall not operate after 2200 hours daily.

Reason: To protect the amenities of the area and adjacent properties.



6. The developer/operator of the premises shall comply with the following requirements:
- (a) Noise levels to be monitored for a period of one week prior to commencement of development to establish a background noise level at NSL1, NSL2 and NSL3 as identified in Figure 4 of the Noise Assessment dated the 15th of July, 2022 to establish the background noise level. The results of same shall be submitted to the planning authority for its records.
 - (b) Noise emanating from the premises shall not exceed the background noise level at NSL1, NSL2 and NSL3 by more than 3dB(A) during the period from 0700 to 2200 hours and by 1 dB(A) at any other time. The background level shall be taken as L90 and the specific noise shall be measured at LAeqT.
 - (c) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedance criteria in relation to background and operational noise levels as set out in (b) above. The background noise levels shall be measured at LAeqT.
 - (d) 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.
 - (e) Any measuring instrument shall be precision grade.

Detailed plans and particulars indicating sound-proofing or other measures required to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to use of the premises as a public house/restaurant. 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 operating hours.



7. Site development and building works shall be carried out only between the hours of 0800 and 1900 Mondays to Fridays, inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

8. The developer shall control odour emissions from the premises in accordance with measures (including extract duct details) which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

9. The construction of the proposed development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the proposed development, including noise management measures, traffic management and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

10. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a detailed servicing management plan in respect of deliveries and the collection of waste from the premises. The plan shall include delivery and collection times, locations, parking for service vehicles, and routes of movement of products and waste to and from the premises. Deliveries and collections shall not be permitted until before 8am Monday to Saturdays only, with no deliveries or collections permitted on Sundays.

Reason: In the interest of public safety and residential amenity.

11. Full specifications and details of the proposed signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.



Reason: To protect the visual amenities of the area.



Chris McGarry

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this  day of  2024.