

Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D22A/0441

Appeal by Charjon Investments Limited care of Tom Phillips and Associates of 30 Harcourt Street, Terenure, Dublin against the decision made on the 11th day of August, 2022 by Dún Laoghaire-Rathdown County Council in relation to the application by the said Charjon Investments Limited for permission for development comprising for a three year temporary retention permission for development at a site of circa 0.1178 hectares, located within a larger landholding (circa 1.8 hectares) on the grounds. The development for which a three year temporary retention permission for development is sought consists of a 'Meanwhile Use' development of some 40 square metres consisting of: a repurposed shipping container (circa 15 square metres) that operates as a café/coffee shop (Box'd Coffee); a marquee suspended on upright supports to the front of Box'd Coffee; a single storey refrigerated storage unit between 'Apres Ski' and the Taney Road site boundary (four square metres); a repurposed shipping container operating as a preparation kitchen for a permitted pizza kitchen (Fired Up Pizza) (circa 15 square metres); a timber store (circa 1.5 square metres) and 1.1 metre high timber fence located adjacent to the previously identified Box'd Coffee shipping container; a pitched roofed shed type structure (circa four square metres) located to the rear of 'Fired Up Pizza'; a tarmacked surface (circa 184 square metres); a timber framed pergola type structure with Perspex roof material serving as a sheltered work area

for Fired Up Pizza; a circa 1.4 metre high timber fence, located in front of the shipping containers; a circa 1.8 metre high timber fence to Taney Road to obscure service areas of Fired Up Pizza and 'Apres Ski'; and an upright outdoor television screen facing Box'd Coffee from across the private road into the car park; outdoor seating; eight number associated signs (including that on the roof of the Fired Up Pizza unit); and all ancillary structures above and below ground. The eight number signs to be retained consists of a circa 3.25 metres poll sign (located adjacent to the site's boundary with Taney Road); a sign inscribed with 'Pizza' (circa 3.24 square metres), located on top of the previously permitted 'Fired Up Pizza' container; a sign inscribed 'Fired Up Pizza' (circa 1.44 square metres), located on the front of the previously permitted Fired Up Pizza container; two signs, inscribed 'Box'd Coffee' (circa 2.17 square metres and 4.575 square metres respectively) located on the Box'd Coffee container; a sign (circa 2.16 square metres) located along the site's boundary with Taney Road located in front of the poll sign; and two signs (circa 2.16 square metres each) located to the east and west of the site's car park entrance on Taney Road. The Fired Up Pizza shipping container (circa 42 square metres) and its use already enjoy a temporary retention permission (Dún Laoghaire-Rathdown County Council Register Reference D20A/0493). This application, inter alia, seeks amendments to condition number 5 of Register Reference D20A/0493 (regarding signage at the Taney Road entrance to the site as the two retained signs are not incorporated into the existing signage structures for the 'The Goat Bar and Grill'). The Parcel Motel (3.5 square metres) was permitted on 29th April, 2015 (Register Reference D14A/0712.) 'The Meanwhile Use' includes a beer garden structure currently referred to as 'Apres Ski' (circa nine square metres) that serves as a bar and provides seating is covered by the provisions of Civil Law (Miscellaneous Provisions) Act 2021, which, inter alia, makes provision 'on a temporary basis, for the sale or supply of intoxicating liquor in certain circumstances in seating areas located outside licensed premises in order to allow, in the public interest and having regard to the manifest and grave risk to human life and public health posed by the spread of the disease known as Covid 19, the businesses of licences of such premises to operate in a manner that mitigates the spread of that disease, to provide for the application of certain enactments to those outdoor seating areas. 'In addition, the Section 28: Guidelines

for Planning Authorities - Enforcement of Certain Planning Conditions during the Coronavirus (Covid 19) outbreak (29th March, 2020) details that 'given the exceptional challenges arising from Covid-19, it is critical that support is given to restaurants and cafes to allow them to maximise opportunities to maintain a revenue stream' and that 'given the serious danger to public health and the resultant pressures placed on the restaurant and café sector, the planning authorities should take an accommodating and flexible approach to conditions restricting the provision of delivery and take-away services' and that 'any breaches of planning condition in relation to restaurants or cafes operating a delivery take-away service to be 'of a minor nature', other than where issues arise which could seriously impact on public health and safety' at site of circa 0.1178 hectares, located within a larger landholding (circa 1.8 hectares) on the grounds of The Goat Public House, Lower Kilmacud Road, Dublin in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions a permission for the permitted pizza kitchen (Fired Up Pizza), a single storey refrigerated storage unit between 'Apres Ski' and the Taney Road site boundary (four square metres), a pitched roofed shed type structure (circa four square metres) located to the rear of 'Fired Up Pizza', a tarmacked surface (circa 184 square metres and a beer garden structure currently referred to as 'Apres Ski' (circa 89 square metres) and to refuse permission for a repurposed shipping container (circa 15 square metres) that operates as a café/coffee shop (Box'd Coffee); a marquee suspended on upright supports to the front of Box'd Coffee; a repurposed shipping container operating as a preparation kitchen for a permitted pizza kitchen (Fired Up Pizza) (circa 15 square metres); a timber store (circa 1.5 square metres) and 1.1 metre high timber fence located adjacent to the previously identified Box'd Coffee shipping container; a timber framed pergola type structure with Perspex roof material serving as a sheltered work area for Fired Up Pizza; a circa 1.4 metre high timber fence, located in front of the shipping containers; a circa 1.8 metre high timber fence to Taney Road to obscure service areas of Fired Up Pizza and 'Apres Ski'; and an upright outdoor television screen facing Box'd Coffee from across the private road into the car park; outdoor seating; eight number associated signs (including that on the roof of the Fired Up Pizza unit); and all ancillary structures above and below ground. The eight number signs to be

retained consists of a circa 3.25 metres poll sign (located adjacent to the site's boundary with Taney Road); a sign inscribed with 'Pizza' (circa 3.24 square metres), located on top of the previously permitted 'Fired Up Pizza' container; a sign inscribed 'Fired Up Pizza' (circa 1.44 square metres), located on the front of the previously permitted Fired Up Pizza container; two signs, inscribed 'Box'd Coffee' (circa 2.17 square metres and 4.575 square metres respectively) located on the Box'd Coffee container; a sign (circa 2.16 square metres) located along the site's boundary with Taney Road located in front of the poll sign; and two signs (circa 2.16 square metres each) located to the east and west of the site's car park entrance on Taney Road and amendments to condition number 5 of Register Reference D20A/0493 (regarding signage at the Taney Road entrance to the site as the two retained signs are not incorporated into the existing signage structures for the 'The Goat Bar and Grill').

Decision

GRANT permission for (i) The permitted pizza kitchen (Fired Up Pizza); (ii) a single storey refrigerated storage unit between 'Après Ski' and the Taney Road site boundary (four square metres); (iii) a pitched roofed shed type structure (circa 4 square metres) located to the rear of 'Fired Up Pizza'; (iv) a tarmacked surface (circa 184 square metres); (v) a beer garden structure currently referred to as 'Après Ski' (circa 89 square metres) in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.

REFUSE permission for (i) a repurposed shipping container (circa 15 square metres) that operates as a cafe/coffee shop (Box'd Coffee); (ii) a marquee suspended on upright supports to the front of Box'd Coffee; (iii) a timber store (circa 1.5 square metres) and 1.1-metre-high timber fence located adjacent to the previously identified Box'd Coffee shipping container; (iv) a timber framed pergola type structure with Perspex roof material serving as a sheltered work area for 'Fired Up Pizza'; (v) a circa 1.4 metre high timber fence, located in front of the shipping containers, and (vi) circa

1.8 metre high timber fence to Taney Road to obscure service areas of 'Fired Up Pizza' and 'Après Ski', and (vii) an upright outdoor television screen facing Box'd Coffee from across the private road into the car park; (viii) outdoor seating; (ix) 8 number associated signs (including that on the roof of the Fired Up Pizza unit); (x) amendments to Condition Number 5 of planning Register Reference D20A/0493 (regarding signage at the Taney Road entrance to the site as the two retained signs are not incorporated into the existing signage structures for 'The Goat Bar and Grill' based on the reasons and considerations marked (2) under.

Reasons and Considerations (1)

Having regard to the zoning of the site in the Dún Laoghaire-Rathdown County Development Plan 2022-2028, it is considered that the development proposed for retention will, subject to compliance with the conditions set out below, would not detract from the amenity of the area and would be consistent with the provisions of the current development plan. This element of the development would be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development proposed to be retained shall be carried out, retained and completed in accordance with the plans and particulars lodged with the application, 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 development shall be carried out, retained and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission shall be for a period of two years from the date of this Order. The structures shall be removed on the expiration of this period and the site reinstated unless, prior to the end of the period, a further permission for its retention shall have been granted.

Reason: in the interests of orderly development.

3. No music or other amplified sound shall be emitted within the site in such a manner as to cause nuisance to the occupants of nearby property.

Reason: In the interest of amenity

4. The uses hereby permitted shall not be operated between 2300 hours and 0800 hours on any day.

Reason: In the interest of the residential amenities of property in the vicinity.

5. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management.

7. Details of the layout and marking demarcation of long stay and visitor bicycle parking spaces, in addition to facilities for staff walkers and cyclists, shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this order.

Reason: To ensure that adequate bicycle parking provision and associated facilities are available to serve the proposed development, in the interest of sustainable transportation.

8. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this Order. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

9. 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 one month 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.

Reason and Consideration (2)

The visual impact of the additional restaurant/take-away structures, coffee shop container, marquee with outdoor seating, large TV and associated structures are considered to be out of keeping with the area. The combined visual impact of the development creates a disorderly streetscape with container structures of design forms not suited to the area that fail to integrate with the streetscape. The signage for retention creates unacceptable visual clutter in the streetscape. The development is thus contrary to the proper planning and sustainable development of the area.

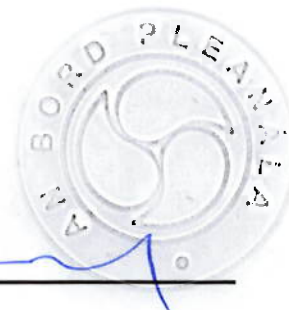
In deciding not to accept the Inspector's recommendation to grant permission for all elements of the development to be retained, the Board shared the view of the planning authority that the cumulative effects of the proposed development would create a disorderly streetscape and would have a negative impact on the amenity of the local area.



Martina Hennessy

Member of An Bord Pleanála

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



Dated this 16th day of January 2024.