



An  
Bord  
Pleanála

## Board Order ABP-314661-22

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Dublin City Council South**

**Planning Register Reference Number: SF656**

**Appeal** by Darren Costello care of Brian Mullins and Associates of Conabuty, Upper Kilmacud Road, Dundrum, Dublin against the decision made on the 26<sup>th</sup> day of August, 2022 by Dublin City Council to refuse a licence.

**Licence Application:** Annual street furniture licence for tables and chairs on the public footpath outside a cafe where food is sold for consumption on the premises, under the Planning and Development Regulations, 2001 (made under the Planning and Development Act, 2000), at Lennox Terrace (adjacent to 31 Lennox building, 31 Lennox Street, Portobello, 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, directs the planning authority to **GRANT** a licence, based on the reasons and considerations under and subject to the conditions set out below.

## REASONS AND CONSIDERATIONS

### Area A

Having regard to the location of Area A as detailed in the site plan submitted with the application, it is determined that this area consists of private land and is not located on or along the public road, and the Board is precluded from determining the appeal in respect of Area A in accordance with Section 254 of the Planning and Development Act 2000, as amended.

The Board also noted that Board Order ABP-315517-23 made on the 18<sup>th</sup> day of January 2024 already granted permission for an extension of the business hours of 31 Lennox Street Wednesday to Saturday 9am to 10.30pm, with the outdoor terrace to the front (Area A in this application) to be closed at 8pm.

### Area B

Having regard to the provisions of Section 254 of the Planning and Development Act 2000, as amended, the proposal to place street furniture in the public road in Area B, to the front of 31 Lennox Street, would require the removal of a number of easily accessible on-street public pay and display parking spaces on a busy inner-city thoroughfare, to serve a private business, would reduce visibility for motorists parking in the area and pedestrians crossing the road. The proposed placing of street furniture in Area B would endanger public safety by reason of traffic hazard or obstruction of road users and would, therefore, be contrary to the proper planning and sustainable development of the area.

## Area C

Having regard to the land use zoning and the provisions of the Dublin City Development Plan 2022 - 2028, the existing permitted café and the hours of operation, and the nature, scale and layout of the proposed seating for which a street furniture licence has been sought in Area C, the Board considered that, with the omission of a plastic storage box and mobile dining hubs and subject to compliance with the conditions set out below, the provision of street furniture in Area C would not seriously injure the amenities of the area, or of property in the area, would not give rise to a traffic or pedestrian hazard, would not negatively affect the special interest or character of the protected structure, nor would it affect the character of the streetscape on Lennox Street. The proposed development within Area C would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board did not agree with the Inspector that the storage box and mobile dining hubs did not detract from the character and setting of this Protected Structure. The Board also considered it appropriate given the totality of information and submissions that details for storage of street furniture be agreed in advance with the planning authority, and that a two-year duration for the licence would be more appropriate.

## CONDITIONS

1. The licence in respect to Area C on Lennox Terrace shall be in accordance with the application details received from the planning authority by the Board on the 10<sup>th</sup> day of October 2022, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity.

2. Street furniture shall be restricted to the Area C as outlined in red in the Site Plan drawing No 210122-PL-02A.

**Reason:** In the interest of clarity.

3. A plastic storage box located on Lennox Terrace and the mobile dining hubs with integrated seating and tables in Area C shall be removed and are not permitted.

**Reason:** In the interest of pedestrian safety and to provide access for emergency services.

4. The street furniture in Area C shall be used between the hours of 0900 and 1730 Monday to Sunday and shall be removed from the area and shall be stored indoors during the times the furniture is not permitted to be on the street, that is, from 1730 hours to 0900 hours Monday to Sunday.

**Reason** In the interest of residential amenity.

5. Prior to the first placement of any street furniture in Area C, the applicant shall submit to and agree in writing with the planning authority details of the following:

- (i) Technical specifications of all elements of the proposed street furniture to be placed on the road, confirming that each element of street furniture is suitable for use as street furniture.

- (ii) Details of mobile barriers to be installed at the southern end of the Area C to restrict parking of vehicles and facilitate the free movement of all

persons using Lennox Terrace outside of the hours that furniture is permitted to be placed on the road.

(iii) Details of the indoor storage areas for street furniture in Area C.

**Reason:** In the interest of public health and safety.

6. No outside amplification/ speakers/live entertainment is permitted, and no speaker or amplifier within these premises shall be configured in such a manner as to project sound onto the public footpaths or road.

**Reason:** In the interest of the amenity of the area.

7. The appropriate rental and table charges shall be paid to Dublin City Council within three months of the date of this Order.

**Reason:** It is considered reasonable that the applicant contributes to Dublin City Council for the use of the public pavement.

8. All appropriate public liability insurance shall be in place for the duration of this licence.

**Reason:** In the interest of public safety.

9. This licence shall be valid for a period of two years only from the date of this Order.

**Reason:** To enable the impact and acceptability of such street furniture at this location to be re-assessed and in the interests of amenity and public safety.

*Eamonn James Kelly*

**Eamonn James Kelly**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

Dated this *14<sup>th</sup>* day of *March*, 2024.