



An  
Bord  
Pleanála

## Inspector's Report PL29N.246939

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<b>Development</b>	Works to the roof and modifications to shop front and new signage.
<b>Location</b>	12 Fairview Avenue Lower, Dublin 15.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	2519/16.
<b>Applicant(s)</b>	Thorpeview Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Appellant(s)</b>	Michael Tuite.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	22 <sup>nd</sup> of September 2016.
<b>Inspector</b>	Karen Hamilton.



## 1.0 **Site Location and Description**

1.1.1. The site fronts onto Fairview Strand with a second entrance on Fairview Avenue Lower. Fairview Strand is a busy main road which becomes Clontarf Road beyond Fairview/ Marino. Fairview Lower is a quieter road with a mix of residential and commercial uses. The building is in use as a public house and currently under refurbishment.

## 1.2. **Proposed Development**

1.2.1. The proposed development relates to three aspects:

- Fascia amendments to the elevation fronting onto Fairview Strand to include new raised, pin mounted and back lit painted foamex lettering onto the existing timber fascia on ground floor and first floor to replace the current names. Proposed neon signage “Fairgreen” onto existing brickwork and internally illuminated “Bru House” behind new inserted glazing along Fairview Avenue Lower.
- Two motorised retractable roof awnings on both sides of the pitch roof at Fairview Ave Lower entrance. These openings would serve the double height first floor bar/ restaurant within the building.
- Replacement of the current hanging signs along the Fairview Avenue Lower and the Fairview Strand elevations.

## 1.3. **Planning Authority Decision**

### 1.3.1. **Decision**

1.3.2. The planning authority decided to grant permission. A Noise Survey and Acroscopic Report, photomontage for the retractable roof, proposed materials, details of land

ownership and first floor plans were submitted at the further information stage. The following conditions are of note:

C 2: Omission of retractable roof panes on the northern pitch and removal of the projecting sign on both elevations.

C 3: Restriction on speaker announcements, amplified music and other audible material in the first floor room served by the retractable roof.

#### **1.4. Planning Authority Reports**

##### **1.4.1. Planning Report**

1.4.2. The report of the area planner can be summarised as follows:

- Following the submission of further information there were still concerns over the impact of the proposal on the adjoining residential amenity. In particular, the impact of the noise from the retractable roof and the smoking area within a sensitive “transition” area and the visual amenity of the projecting signs. These issues are capable of being dealt with by condition.
- A recommendation to grant the retractable awning on the south slope and the amendments to the fascia including the neon sign on Fairview Avenue Lower and omit the retractable roof awning on the northern slope and the hanging signs on both elevations.

##### **1.4.3. Other Technical Reports**

1.4.4. Air Quality Monitoring & Noise Control Section:

No objection to the proposal subject to condition to restrict the playing of music or other audible material in the room served by the retractable roof.

#### 1.4.5. Drainage Division:

No objection subject to conditions.

#### 1.5. **Third Party Observations**

One submission received. The issues raised are covered in the grounds of appeal.

### 2.0 **Planning History**

#### 2.1.1. 4679/04

Erection of canopy awning at both entrances on Fairview and Fairview Avenue Lower. Condition 2 omitted the canopy at Fairview Avenue Lower. Condition 3 required the colour to be green and restricted additional logos. Condition 9 restricted any additional signage e.g. neon projecting elements etc.

### 3.0 **Policy Context**

#### 3.1.1. Dublin City Council Development Plan 2011-2017

#### 3.1.2. Zoning: The site is located in Z4 "*District Centre*" which supports the inclusion of mixed use services. The adjacent lands to the north of the site on Fairview Avenue Lower are zoned Z1 "*Sustainable Residential Neighbourhoods*".

#### 3.1.3. Signage: Section 17.25.3 of the plan relates to guidance on signs for shopfronts and other business premises. Reference is given to the Dublin City Councils Shopfront Design Guide, 2001 and the O'Connell Street Area Shopfront Design Guidelines, 2003. Guidance for outdoor advertising strategy is contained in Appendix 27 of the plan and supports the provision of appropriate outdoor advertising along Zone 3 areas (radial routes) and requirement for advertising along Zone 6 (predominantly residential) to be in keeping with the character of surrounding areas.

3.1.4. Transitional Zones: These zones are predominantly mixed-use zones abutting residential development. There is a requirement to regard the amenities of the residential properties during the design of proposals. Section S15.9 provides guidance on developments which are detrimental to the amenity of environmentally sensitive areas.

## 4.0 The Appeal

### 4.1. Grounds of Appeal

4.1.1. The grounds of appeal are submitted from Michael Tuite and can be summarised as follows:

- The passageway which runs along the north of the entrance at Fairview Ave Lower is not within the applicant's ownership and should not be used for the storage of refuse or kegs as it is hazardous. In addition, these kegs should not be left on the public footpath.
- Conditions in relation to the revised design are unacceptable as they do not afford public consultation. These amendments warrant a separate planning application.
- The retractable roof would be a source of considerable noise for the neighbours and the condition to restrict amplified music or audible material is not sufficient.
- It is argued that there is no provision in the plans for bicycle or car parking and the loading and unloading would cause a traffic hazard.

## 4.2. **Planning Authority Response**

4.2.1. No response received.

## 4.3. **First party response**

4.3.1. There was no first part appeal against the conditions received. The agent on behalf of the applicant submitted a response to the appeal to request that the positive decision from Dublin City Council was upheld. In addition to this they requested that Condition No. 2 be omitted.

## 5.0 **Assessment**

5.1. The main issues in this appeal can be dealt with under the following headings:

- Residential Amenity
- Visual Amenity
- Other Matters
- Appropriate Assessment.

### **Residential Amenity**

5.2. The character along Fairview is most certainly that of a District Centre, upon site inspection there was no evidence of any residential property on upper floors of the premises over the commercial units. The character of the area changes significantly along the Fairview Avenue lower where a residential presence takes precedence over commercial, there are no commercial premises north of the subject site. Section S15.9 of the Dublin City Development Plan 2011-2017 makes specific reference to transitional zones and the need to afford protection for these.

5.3. The grounds of appeal object to the use of conditions to regulate the proposed development. Condition No 2 of the planning authority decision omits the retractable

roof panels on the northern plane only in order to prevent noise and disturbance on the adjoining residential properties. The retractable awning on the southern plane was granted. The grounds of appeal consider that even the proposed awning on the southern roof slope would result in an unacceptable level of noise. Condition No 3 restricted speaker announcements, amplified music and other audible material in the first floor. The ground of appeal argue that these were not subject to public condition.

- 5.4. The submitted Noise Survey and Acoustic Report includes data relating to the possible impact from the retractable roof and the inclusion of a smoking area in the space below. The initial submitted plans make no reference to a smoking area. Upon site inspection I noted that there was currently an open section to the existing roof on the first floor. This was not included in the proposal. The submitted noise survey recommends the reduction of music near closing time.
- 5.5. Having regard to the proximity of adjoining residential communities, I consider this music and other noise associated with the use of the public bar/ restaurant has the potential to cause disturbance. I do not consider that the omission of one part of the retractable roof on the northern section would sufficiently protect the residential amenities while allowing the opening of the southern slope. Based on the information submitted in the Noise Survey, the location of the development and the possible use as a smoking area I find both retractable roofs to be unacceptable and detrimental to the residential amenity of the surrounding areas.

**Visual amenity.**

- 5.6. *Fascia Signage:* The proposed single style lettering for the signage to the fascia and first floor along Fairview should provide a positive addition along this busy streetscape and I have no objection to this element of the proposal.
- 5.7. *Projecting Signage:* There is currently a projecting sign on each elevation. The proposal included works to each of these signs. Condition No 2 required the omission of both projecting signs by reason of impact on residential amenity. These



current projecting signs are modest in scale and do not appear to be incongruous in the streetscape along either Fairview or Fairview Avenue Lower. A submission from the applicant has requested that these be allowed. The submitted plans and particulars are lacking in detail as drawing no BDF-PA-09.02 refers to new signage with no addition detail. The plans only indicate new lettering. I consider however this issue can be dealt with by a suitable condition. I am satisfied that the current projecting signs or additional proposals at both entrances have any negative impact on the visual amenity of the surrounding area.

5.8. *Neon Signage:* Two neon signs are proposed at the Fairview Avenue Lower entrance. "Fairgreen" in individual lettering is proposed above the ground floor elevation. "Bru House" is an internally illuminated box sign set behind the new glazing. I note that there are no neon signs on either frontage at present.

5.8.1. The entrance is located in a transitional zone and the current use of the entrance is secondary to the main entrance on Fairview Strand. I consider that the use of neon lighting on these signs within a transitional zone would detract from the visual amenity and residential nature of the area. Furthermore, the attraction of additional patrons to the Fairview Avenue Lower entrance via a neon sign would have a significant negative impact on the amenity of the residential properties on the street.

### **Other Matters**

5.9. The appellant has raised issues in relation to the use of the alleyway along the northern aspect of the site. Upon a site inspection it appeared that this area was used as a right of way to the side and rear of premises and there where kegs lined along the wall of the public bar. This aside I believe that this landownership is not a planning related matter and is not relevant to the proposed development nor does it have any bearing on my recommendation.

5.10. The lack of provision for car and bicycle parking was raised in the grounds of appeal. The proposed development does not relate to additional floorspace or change of use

and I do not consider parking or traffic are relevant to the consideration of this proposal.

### **Appropriate Assessment**

- 5.11. South Dublin Bay and River Tolka Estuary SPA is located approximately 600 m south east of the site. The site is divided from the European site by the Fairview Park. Having regard to the minor nature of the elevational changes and nature of the receiving environment and proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **6.0 Recommendation**

- 6.1. GRANT permission for the proposed lettering on the Fairview fascia and projecting signs on Fairview and Fairview Avenue Lower in accordance with the said plans and particulars based on the reasons and considerations marked (1) under. REFUSE permission for the neon signage and retractable roof based on the reasons and considerations marked (2) under.

### **7.0 Reasons and Considerations (1)**

Having regard to the Z4 district centre zoning of the Fairview Strand frontage, the pattern of development in the area and the modest scale and design of the proposed fascia amendments and hanging sign on Fairview Strand and the hanging sign on Fairview Avenue Lower, it is considered that they would not have a negative impact on the surrounding area and would be in accordance with the proper planning and sustainable development of the area.

### **Conditions**

1. The development shall be carried out 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 prior to commencement of development and the development shall be carried out and completed out in accordance with the agreed particulars.

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

2. The proposed shopfront shall be in accordance with the following requirements:
  - (a) Signs shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering,
  - (b) Details of the proposed lettering on the projecting signs along Fairview and Fairview Avenue Lower shall be submitted for the written approval of the Planning Authority.
  - (c) no awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,
  - (d) no adhesive material shall be affixed to the windows or the shopfront.

**Reason:** In the interest of visual amenity

## 8.0 **Reasons and Considerations (2)**

1. Fairview Avenue Lower is located within a transitional zone as defined by Section S15.9 of the Dublin City Development Plan 2011-2017 and is adjacent

to a Z1 residential zoning. Having regard to the character of Fairview Avenue Lower and the proximity to residential property, it is considered that the proposed retractable roof awnings would result in an unacceptable level of noise and disturbance and would seriously injure the residential amenity of the property in the area. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area. Furthermore, the proposed neon sign would not be in keeping with the transitional residential character of Fairview Avenue Lower and has the potential to significantly increase the use of this secondary entrance and would be detrimental to the amenities. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

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Karen Hamilton  
Planning Inspector

03 October 2016